The Local Loans

BENGAL SECRETARIAT LIBRARY

OF

ENGLAND AND WALES;

BEING

AN EXPOSITION OF THE LAW

RELATING TO

THE BORROWING OF MONEY BY LOCAL AUTHORITIES,

TOGETHER WITH OTHER

PRACTICAL INFORMATION

WITH RESPECT TO LOCAL SECURITIES.

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PREFACE.

THE local indebtedness of this country, which probably amounts at the present time to something between £150,000,000 and £160,000,000, may be said, speaking roughly, to have about doubled itself during the last ten years; and there seems to be every reason to believe that it will continue to increase with great rapidity for many years to come. The growing importance of the subject alike to the borrowing authorities and to the investing public has led to the publication of the present work, in which an attempt has been made, not merely to set out and explain the law relating to the local loans of England and Wales (of itself a sufficiently difficult task), but also to embody such practical information, as is likely to be of assistance to local authorities and their officers in connexion with their loan transactions, and to persons proposing to advance money on local securities.

The main difficulty in arriving at an adequate understanding of the law relating to local loans is caused by the multiplicity of the statutory provisions, regulating the powers of borrowing, under which these loans are created. In the present volume, for the first time, such of these provisions as are contained in general Acts of Parliament have been brought together and arranged, and some account is also given of the practice, which has been adopted by Parliament in authorizing the raising of local loans under analogous provisions in local Acts and Provisional Orders. Numerous references to these latter Acts and Orders have been made by way of illustration; and it is hoped that by this means the reader will be enabled to realize the general nature of the borrowing powers which have thus been conferred on every description of local authority.

The decisions of the courts, bearing on the law of local loans are also, for the first time, collected and commented on. So far as investors are concerned they will be found to be reassuring, assuming not only that due care has been taken to investigate the title of the borrowing authority, but also that the requirements of the statute by which the power to borrow is conferred, have been complied with, and that the lender has not neglected to enforce the repayment of his principal within the period prescribed for that purpose. These assumptions point, however, to the necessity of the employment of a competent legal adviser, a precaution which should never be dispensed with by persons proposing to advance money to local authorities, except in the comparatively rare instances where the loan is raised under official sanction,[1] or where the Act which authorizes it contains special provisions exempting the lender from inquiries and rendering the security valid, notwithstanding defects in the title of the borrower or the failure to comply with the prescribed regulations.[2] So far as local authorities are concerned, some of these decisions may afford matter for useful reflection, showing, as they do, what serious personal liabilities may be incurred[3] by the individual members, and especially by the chairmen of public bodies, where money is borrowed otherwise than in accordance with the requirements of the statute, *e.g.*, by means of temporary loans or overdrawn accounts, where borrowed moneys are misapplied, or securities created in excess of borrowing powers, or where sinking funds are left in the hands of treasurers, or not invested in accordance with the terms of the Act under which they are set aside.

The duties of local authorities with respect to the gradual liquidation of their loans involve questions of such importance and complexity that it has been thought right, at the risk of appearing tedious, to enlarge on them somewhat fully in the present volume.[4] Accordingly, every method of repayment which has been recognized by existing Acts of Parliament is discussed and described for the guidance of the numerous local authorities which are allowed an option of selecting from them, and, with this object, the advantages and disadvantages of each system are pointed out. This part of the volume also

[1] See pages 7 and 8.
[2] See pages 241, 244, 279, 333, and 334.
[3] See pages 16 to 20, and page 69, and the cases there cited.
[4] See pages 62 to 75.

contains elaborate actuarial tables, specially compiled for the purpose of enabling local authorities to calculate the amounts of the annual and half-yearly repayments of their loans where the annuity principle is adopted, and also the amounts of the annual payments which are required to be made into sinking funds and loans funds, where the loans are not being repaid by means of instalments or annual appropriations. Directions, with examples, are given as to the manner in which these tables are to be used, both for the purpose of ascertaining the amounts of the payments to be made from time to time on account of each loan, and also for the periodical rectification of the sinking fund, and a considerable amount of space has been devoted to an explanation of the various questions which arise in connexion with sinking funds, *e.g.*, the investment of the fund; its application; the benefit to the ratepayers which is gained when the accumulating system is adopted; and the considerations which should be borne in mind in fixing the rate of accumulation, to be taken as the basis of calculation in determining the amounts of the annual payments.

The advances, which have been made of late years to local authorities by the Public Works Loan Commissioners, are so numerous and of such large amount that it has been deemed expedient to set out in some detail the more important provisions of the Acts which regulate them, and the rules which have been made by the Commissioners with respect to them. The purposes for which the Commissioners may lend money, the cases in which they are empowered to charge a reduced rate of interest, the considerations which guide them in determining the period to be allowed for repayment, the practice which they have adopted of making the rate of interest payable on their advances dependent on the period and method of repayment accepted by the borrower, the fees which they charge, the securities which they take, the statutory obligations imposed on local authorities with respect to the application of moneys borrowed from the Commissioners on the security of rates, and the powers of the Local Government Board to see that these obligations are fulfilled, are all matters as to which it is desirable that precise information should be possessed by borrowing authorities, before they determine to raise their loans from this source, in preference to borrowing in the open market. No pains have been spared to render this portion of the present work as complete and accurate as possible.

It is within the knowledge of the author that considerable misapprehensions prevail as to the scope and effect of the Local Loans Act, 1875, which (though some of its provisions are undoubtedly obscure and defective), has been found of no small service to some local authorities which have elected to raise their loans by the issue of securities under it. Every endeavour has, therefore, been made in these pages to explain the apparent intention of the framers of this Act, and the extent to which this intention has been carried out; and in order to prevent abortive attempts being made to apply it, in cases to which it is inapplicable, its shortcomings have been somewhat freely exposed. The Act itself is set out in full in the Appendix, and annotated; and in the first two chapters of this work, which relate to the raising and repayment of loans by local authorities, frequent references are made to its provisions. The names of the various local authorities which have raised loans under it, with the official sanction of the Local Government Board, are also given, together with the total amount of the moneys which have thus been borrowed.

The great success with which local stock, both metropolitan and provincial, has been brought out for some years past through the agency of the Bank of England, and otherwise, and the growing tendency on the part of the larger municipalities to convert their loans unto this description of security, seemed to render it desirable to discuss the advantages and disadvantages of creating local stock, and to collect, for the benefit of authorities proposing to issue it, such experiences concerning it as have from time to time been made public, in the Annual Reports of the Metropolitan Board of Works and elsewhere. This has accordingly been done, and in addition information is given with respect to the various local Acts which have been passed during the last three sessions, authorizing the creation of corporation and county stock. The contents of these Acts are fully described and explained, attention being drawn to their points of resemblance and dissimilarity to the precedents contained in the Metropolitan Loans Acts. The clauses relating to these stocks, which were inserted in the local Acts of last year, were revised with great care by the Parliamentary authorities, and, consequently, form very valuable precedents. They are, therefore, set out in full in the Appendix, with explanatory notes, as are also the provisions of the Metropolitan Board of Works (Loans) Act, 1867, under which as amended by later

Acts the numerous issues of consolidated stock which have been brought out by the Metropolitan Board of Works have been created. The advantages of making local stock redeemable, and the dangers and inconveniences consequent on making it irredeemable, having been ignored on more than one occasion in which local stock has been created, they are discussed in the body of this work at considerable length.

The Appendix also contains the sections of the Commissioners Clauses Act, 1847, with respect to mortgages, with notes; reports of the cases of *Reg.* v. *the Churchwardens of Wigan and others*, and *Reg.* v. *Sir Charles Reed;* and the more important Orders which have been issued by the Local Government Board prescribing the mode of registration of securities under the Poor Law Acts, and the forms of the annual returns, which are required to be made to that Board with respect to sinking funds, loans funds, repayments by instalment, and annual appropriations under the Local Loans Act, 1875, and various recent local Acts and Provisional Orders.

In conclusion, the author desires to express his sincere thanks to his friend, Mr. C. C. M. Dale, of 2, Old Square, Lincoln's Inn, to whom he is indebted for the very valuable and comprehensive index to the present work, which will be found of great service to the reader.

C. N. D.

March, 1883.

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CHAPTER I.

THE RAISING OF LOANS BY LOCAL AUTHORITIES.

Extent of the Indebtedness of the Local Authorities in England and Wales.

Increase of local indebtedness between 1874 and 1880.

FROM a parliamentary paper issued on the 13th of March, 1882, by the Local Government Board, in return to an order of the House of Commons, dated the 2nd March, 1882, it appears that the aggregate amount of the local loans in England and Wales rose, during the seven years, from 1874 to 1880, both inclusive, from £84,194,956 to £137,096,607. According to the same return, the loans in England and Wales of urban sanitary authorities grew from £27,135,075 to £61,679,623, and those of school boards from £990,006 to £9,937,152 during the same period; which, it may be remarked was, for the most part, one of considerable commercial depression. The latest statistics give the aggregate amount of the indebtedness of the local authorities at the end of the financial year 1880-1881, as £144,335,235. This amount was apportioned in the following manner, viz. :—

Aggregate amount of local indebtedness at the end of the year 1880-1881.

How apportioned.

Poor-Law Loans, £5,271,303; County Loans, £2,995,311; Borough Loans, £6,495,112; Highway Loans, £49,580; Metropolitan Local Management Loans, £2,411,477; Loans of the Metropolitan Board of Works, £15,245,229; Loans of Town Councils acting as Urban Sanitary Authorities, £53,213,834; Loans of other Urban Sanitary Authorities, including Joint Boards, £12,818,333; Loans of Rural Sanitary Authorities, £1,081,056; Loans of Port Sanitary Authorities, £5,237; Loans of Sewer Commissioners, £78,519; Loans of Drainage and Embankment Commissioners, £1,535,740; Burial Board Loans, £1,717,612; School Board Loans, £10,858,988; Church Rate Loans, £41,800; City of London Loans, £5,274,800; Loans of Turnpike Trustees, £550,237; Loans of Bridge and Ferry Commissioners, £210.926; Loans of

Market and Fair Commissioners, £83,422; Loans of Harbour Commissioners, £24,396,722.

Purposes for which Local Loans may be raised.

Purposes of local loans enumerated.

The purposes for which local authorities are empowered to borrow under the general law are very numerous.[1] They include, (1) public buildings, such as police stations, asylums, reformatories, schools, town halls, market buildings, public baths and washhouses, workhouses, training ships, free libraries, museums, and hospitals; (2) the purchase of land for any of the above purposes or for the making or improvement of streets, or for the provision of cemeteries, sewage farms, market places, public parks and places of recreation, or for the improvement of unhealthy areas in overcrowded localities; (3) the construction of various works of public utility, such as waterworks, gasworks, electric lighting works, bridges, harbours, piers, tramways, fire engines and stations, works of sewerage, paving, river or harbour protection, and land drainage; and (4) other purposes, the expenditure required for which the Legislature has considered should be defrayed by means of loans rather than out of the current rates or revenue for the year. Under local Acts and Provisional Orders[2] powers of borrowing have been given to many local authorities to enable them to carry out undertakings, for the construction of which no power is given by the general law, and also for purposes falling within one or other of the class of purposes for which powers of borrowing have been conferred by the general law, but which either from their magnitude, or from local impediments, or the defective state of the general law when the works were required, or from other causes, could not be conveniently carried out without special legislation. Powers of borrowing are conferred by the Public Health Act, 1875, for the purpose of defraying, in certain cases, the costs of Provisional Orders under that Act; and it is also usual for local Acts to contain provisions authorizing the expenses of obtaining them to be borne out of borrowed moneys.

Securities on which Local Loans may be charged.

Securities for local loans enumerated.

The securities on which loans can be charged by local

[1] The borrowing powers of local authorities under the general law are given in detail in Chapter IV.

[2] For further information as to the borrowing powers of local authorities under local Acts and Provisional Orders, see Chapter V.

authorities consist of local rates and funds, tolls, dues, the revenues derived from water, gas, and other undertakings, and the land and other real property of the borrowing authorities. None of these securities can be safely charged with the repayment of any loan without an express statutory power[1] enabling the local authority so to charge them, and unless the statutory conditions, subject to which such power is authorized to be exercised, are complied with. This power is sometimes given by a general Act of Parliament, and sometimes by a local Act or Provisional Order confirmed by Parliament. The general Act usually authorizes the borrowing of the money on the security of the specific rate or fund applicable to the purpose for which the loan is required, and rarely authorizes the mortgaging of land belonging to the local authority. Exceptions to this rule will be found in (1) section 235 of the Public Health Act, 1875, which empowers a sanitary authority to borrow money on the credit of any lands, works, or other property of which it is possessed for the purposes of sewage disposal, to the extent of three-fourths of the purchase money of such lands; (2) section 22 of the Artizans and Labourers Dwellings Improvement Act, 1875, which enables local authorities to borrow moneys on the security of any lands, houses, or other property acquired by them under that Act; and (3) section 106 of the Municipal Corporations Act, 1882, under which a municipal corporation may, with the approval of the Treasury, borrow at interest on the security of any corporate land, or of any land proposed to be purchased by them under that Act, such sums as they from time to time think requisite for the purchase of land, or for the purpose of any building which they are by that Act authorized to erect. Under local Acts, it is a common practice to empower the local authority to raise its loans on the credit of the revenues of its various undertakings, *e.g.*, its gasworks, waterworks, markets, tramways or ferries, the local rate or fund being charged as a collateral security. Where this is done, provision is usually made in the Act as to the application of the revenue,[2] any surplus revenue in any year being required to be

Express statutory power requisite.

How given.

Mortgages of land rarely authorized by general Acts.

Exceptions.

Mortgages of revenues.

[1] See the case of *Reg.* v. *Sir Charles Reed*, which is of so much importance that a report of it is given in Appendix (6). See also *Attorney-General* v. *Belfast Corporation* (4 Irish Ch. Reports, 119).

[2] The advantages from the lender's point of view which may be derived from clear provisions in the Act, with respect to the application of the

carried to the credit of the local rate or fund, which is charged as the collateral security. Power is also usually given to make good any deficiency in the revenue for the year, out of such rate or fund. In some local Acts the undertakings themselves may be mortgaged, but this power is not often now given.[1] Of late years power has been given to several local authorities by means of local Acts, to raise their loans by the issue of local stock, charged on all the rates leviable by, and all the funds and revenues belonging to the borrowing authority. Full information with respect to stock thus secured, is given in Chapter VI.

Of undertakings.

Of all rates, revenues, and funds, of borrowing authority.

Forms of Securities.

Manner of borrowing usually prescribed by statute.

The various general and local Acts which have conferred their powers of borrowing on local authorities, have usually prescribed in each case the manner in which the borrowing is to be effected. Formerly local loans were, for the most part, secured by mortgage deeds, and a large proportion of the loans of local authorities are still raised by the creation of this description of security. A form of mortgage is often contained in the schedule to the Act, by which the power of borrowing is given; but it is not usually imperative on the local authority to adopt it. These forms vary considerably. Those most commonly in use, are based on the forms contained in the schedules to the Commissioners Clauses Act, 1847,[2] and the Public Health Act, 1875.[3] It will be observed that they contemplate the mortgage of such proportion only of the rates and revenues charged, as the sum secured by the mortgage "doth or shall bear to the whole sum, which is or shall be borrowed on the

Mortgages.

Forms of mortgage most commonly in use.

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revenues, rates, and funds of the borrowing authority, are illustrated by the case of *Webb* v. *the Herne Bay Improvement Commissioners* (L. R. 5, Q. B. 642; 22 L. T. N.S. 745; 39 L. J. N.S. 221), where a sufficient remedy was obtained by the lender in the shape of a *mandamus*, requiring the commissioners to apply their rates in the manner prescribed by a certain section of their local Act. For further information as to this case, see pages 11, 13, 37 and 38.

[1] A debenture or mortgage charging the undertaking of a local authority, will apparently charge, not only the property used in connexion with the undertaking existing at the date of the security, but also after acquired property so used. *In re Panama, New Zealand, and Australian Royal Mail Company* (L. R. 5 Ch. 318). Under a general power to borrow on the security of the property of a local authority, book debts may apparently be charged. *Bloomer* v. *Union Coal and Iron Company*, L. R. 16 Eq. 385.

[2] A copy of this form will be found in Appendix (1).

[3] See under the borrowing powers of sanitary authorities in Chapter IV.

credit of" the rates and revenues mortgaged. It is obvious that no mortgage made in this form can have any priority over any other mortgage made in the same form; and indeed, when the mortgage is made under the Commissioners Clauses Act, 1847, section 75 of that Act expressly provides, that the mortgagees shall be repaid the sums advanced by them, "without any preference one above another, by reason of the priority of advancing such moneys, or of the dates of any such mortgages." No such provision is however contained in the Public Health Act, and as it is left to the option of the sanitary authority, whether or not they will adopt the form of mortgage contained in the schedule to that Act, it is by no means clear that mortgages under that Act may not be issued in such a form that they will have priority according to date. Under section 8 of the Local Loans Act, 1875, to which reference is made below (see pages 6 to 8) "all sums for the time being due or authorized to be raised on or in respect of any securities issued in respect of the same loan by a local authority," are required to "be paid without any preference the one over the other, by reason of the priority of date of any such securities;" but "where more than one loan has been raised under this Act by the same local authority, the sums for the time being due, or authorized to be raised on or in respect of any securities issued in respect of each loan," are to "take priority according to the date of such loan." Consequently, where several loans are raised by the same local authority, by the issue of securities under the Local Loans Act, each loan will take priority over the loans subsequently raised; and it is a common provision in local Acts, that all moneys borrowed prior to the passing of such Acts, shall have priority over moneys borrowed under such Acts. The conflict between these provisions may lead to considerable difficulties, where a sanitary authority raises some of its loans under the Public Health Act, by means of mortgages made in the form contained in the schedule to that Act, and others either by means of mortgages not in that form, or by the issue of securities under the Local Loans Act; and these difficulties will be enhanced, if the authority subsequently raises loans on the security of the same rates, under powers conferred by a local Act, containing the usual provision that moneys borrowed prior to its passing, shall have priority over moneys borrowed under it. It behoves local authorities therefore to exercise some caution in so framing their se-

Priorities between mortgagees.

curities and their local Acts, that no questions may arise as to priority.

Requirements as to mortgages under Public Health Act and Commissioners Clauses Act.

When the mortgage is made under the Public Health Act, it must be made by deed and must truly state the date, consideration, and the time and place of payment, and must be sealed with the common seal of the sanitary authority (sec. 236). When it is made under the Commissioners Clauses Act, it must also be by deed, and duly state the consideration, and must be under the common seal of the commissioners if they are a body corporate, or, if they are not a body corporate, must be executed by the commissioners, or any five of them (sec. 75). For further particulars as to mortgages under the Public Health Act, 1875, and the Commissioners Clauses Act, 1847, the reader is referred to Chapter IV. and Appendix (1), where the provisions of those Acts relating to this matter are set out in detail.

Local Loans Act, 1875.

It having been considered desirable to enable local authorities to raise their loans by other means than by the creation of ordinary mortgages, the Local Loans Act, 1875,[1] was passed in 1875 with that object. It is a permissive Act, and local authorities may, as they see fit, avail themselves of it, or continue to borrow in the methods adopted by them previously to its being passed. It empowers every local authority in England and Wales which is authorized to borrow money, to raise all or any of its loans by the issue of terminable annuities or debentures, or partly by one of these ways and partly by another. Coupons may, if it is considered desirable, be affixed to these securities. Where a local authority is authorized by special legislation to raise its loans by the issue of debenture stock, it is empowered to issue such stock under the provisions of this Act. Securities issued under this Act may either be made payable to the bearer, in which case they are transferable by delivery, or they be made payable to a person named therein, his executors, administrators, and assigns.

Terminable annuities and debentures.

Coupons.

Debenture stock.

Securities payable to bearer.

Nominal Securities.

How securities to be executed.

Every debenture, stock certificate to bearer, and annuity certificate under this Act will be deemed to be well executed if under the common seal of the local authority, where that authority is a body corporate, and if signed by two or more members of the local authority, where the local authority is not a body corporate, or if otherwise executed in such manner as

[1] The provisions of this Act, to which reference is frequently made in these pages, are set out in full in Appendix (3).

the Local Government Board may direct on the application of any local authority, whether corporate or incorporate (sec. 22).

Issue of securities under official sanction.

Any local authority proposing to raise a loan by the issue of securities under this Act may, if it chooses, apply to the Local Government Board to authorize the issue of such securities under official sanction. Before granting such sanction that board are required to investigate the financial condition of the authority, and they are prohibited from granting their sanction, if the result of their investigations is unsatisfactory. It is important to observe that this sanction (which is required to be authenticated by an official stamp on the securities or otherwise as the Local Government Board may direct) is made by the Act *conclusive evidence* that the authority issuing the securities had power to issue them, and that they have been duly issued, and are, as to form and otherwise, in conformity with the Act. The owner of any security issued under official sanction may moreover on request to the Local Government Board be furnished with information as to the financial position at the date of the loan of the authority, which has issued the security.

Amounts raised under official sanction.

The amount of local loans which have been raised by the issue of securities under this Act, is comparatively small. From the Annual Reports of the Local Government Board it would appear that the following sums have been borrowed under it by the issue of securities under official sanction :—

In 1877-1878	...	...	...	£148,700
„ 1878-1879	...	...	...	240,300
„ 1879-1880	...	...	...	32,035
„ 1880-1881	...	...	...	115,520
„ 1881-1882	...	...	...	42,700
Total ...	...	...	...	£579,255

By which authorities borrowed.

The above sums were borrowed by the Urban Sanitary Authorities of Abertillery, Basingstoke, Burslem, Dartmouth, Dorchester, Kingston-upon-Hull, Newport (Isle of Wight), Peterborough, Plymouth, Richmond, Saint Helens, Saint Thomas, and Smethwick, the Rural Sanitary Authority of the Saint Thomas Union, and the justices of the peace for the county of Cornwall. They do not, of course, represent the whole extent to which the powers given by the Act have been exercised; for it is in the power of local authorities to raise

Extent to which Local Loans Act has been used.

their loans in accordance with the provisions of the Act otherwise than with the official sanction of the Local Government Board, and they have no doubt availed themselves of this power in some cases. That the Act is, to some extent, appreciated may be inferred from the fact that the local Acts, conferring borrowing powers on local authorities, which have been passed, since it came into operation have, for the most part, contained special enactments, enabling the authorities to raise their loans by the issue of securities subject to its provisions, and, in some instances, have not authorized them to raise their loans by any other means. There can be little doubt, however, that the Act has not been so much used as it was expected to be when it was first passed. The intention of its framers was apparently to substitute more popular forms of local securities for the somewhat cumbrous mortgage deeds previously in vogue, and to reduce the expense attendant on the preparation and transfer of local securities.

Other descriptions of security.

In addition to ordinary mortgages, and the debentures, annuity certificates, and debenture stock, issued under the Local Loans Act, there are some other descriptions of local securities which have been authorized to be created under general and local Acts. Thus, on the purchase of the undertakings of gas and water companies by local authorities, it frequently happens that the consideration for the purchase is in the shape of perpetual annuities charged on the revenue of the undertaking and the rates leviable by the purchasing authority, and payable to the shareholders and their assigns. In some instances[1] in former years local authorities were empowered to raise their loans by the issue of annuities for lives; but the power to do this is not possessed by many local authorities, and this is not, as a general rule, a satisfactory method of raising local loans, on account of the uncertainty in the duration of the charge thus imposed on the local rates, especially where the amount borrowed is small and is raised by the creation of a limited number of these annuities. The Metropolitan Board of Works are authorized to raise money for short periods by the issue of bills,[2] with the approval of the Treasury. Under many local

Perpetual annuities.

Annuities for lives.

Metropolitan Bills.

[1] See, for example, section 21 of the Burial Act, 1857, the City of London Sewers Act, 1848 (11 & 12 Vict., c. clxvii., ss. 211 to 218), a Manchester local Act (7 & 8 Vict., c. xli., ss. 131 to 138), and the Huddersfield Improvement Act, 1871, (34 & 35 Vict., c. cli., ss. 377 to 379).

[2] As to these bills, see under the borrowing powers of the Metropolitan

Acts, power is given to raise loans by the issue of debenture stock, somewhat similar in character to that, the issue of which is contemplated by the Local Loans Act. But the most popular form of local security at the present time is the description of stock to which reference has already been made (page 4), and which constitutes a charge on all the rates leviable by, and all the funds and revenues belonging to the borrowing authorities. The nature and incidents of this description of security are so exceptional that it has been considered the better course to treat of it in the present work separately from other kinds of local securities. Full information with respect to it will be found in the Sixth Chapter of this work.

Debenture stock.

Most popular description of security.

Registration and Transfer of Securities.

Most of the Acts of Parliament which confer powers of borrowing on local authorities, require a register to be kept of the securities issued by the authority, and the transfers of such securities, except in cases where the securities are payable to bearer and pass by delivery. Thus all poor law authorities are required (see section 14 of the Divided Parishes and Poor Law Amendment Act, 1882, which is set out below in Chapter IV.), to keep a register of the securities in respect of all sums borrowed by them, in such form and subject to such regulations as to inspection and otherwise as the Local Government Board may from time to time prescribe.[1] Under the Commissioners Clauses Act, 1847 (sec. 76), the register is required to be kept by the clerk to the commissioners. In the Public Health Act (sec. 237), and the Local Loans Act (sec. 23), it is not expressly specified which officer of the local authority is to keep it. But a penalty is imposed by the former of these Acts on the clerk of the local authority if he wilfully neglects or refuses to make in the register of transfers any entry required by the Act to be made therein (sec. 238).

Registers of securities and transfers.

Registers to be kept by poor law authorities.

Registers under the Commissioners Clauses Act, the Public Health Act, and the Local Loans Act.

The Commissioners Clauses Act, 1847, provides that

What registers to be kept.

Board of Works, in Chapter IV. It is somewhat strange that no other local authority should have taken power by their local Acts to issue these bills, as they would be a convenient method in some cases of raising money temporarily, pending the issue of stock, at times when the market is not favourable for bringing out the stock, or when the authority do not require at the moment to borrow a sufficiently large sum, to render the issue of stock desirable.

[1] The regulations, which have been prescribed by the Local Government Board under this section, will be found in Appendix (5).

"where by the Special Act the commissioners are authorized or required to raise separate sums on separate rates or other property, a separate register shall be kept for each class of mortgages." The Public Health Act requires a register to be kept "of the mortgages of each rate," and also "a register of the transfers of mortgage charged on each rate" (sec. 238). In the Local Loans Act the direction is to keep "a register in one or more book or books" (sec. 23).

What to be entered in register.

Both the Commissioners Clauses Act and the Public Health Act direct the entries of the numbers and dates of the mortgages and of the names of the parties thereto to be made within fourteen days after the date of the mortgage in each case, and the entries of the transfers to be made within thirty days after the date of the transfer, if executed in the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom.

The Local Loans Act provides (sec. 9) that no notice of any trust expressed, implied, or constructive, shall be received by the local authority or by any registrar or officer of the local authority in relation to any security issued by such authority under that Act. No similar provision is contained in either the Commissioners Clauses Act or the Public Health Act.

Fees for registration.

Under the Commissioners Clauses Act and also under the Public Health Act a fee not exceeding five shillings may be charged for the entry of every transfer. By the Local Loans Act (sec. 30) the local authority are empowered, with the consent of the Local Government Board, to make rules with respect to the fees, if any, to be charged in respect of registry, or otherwise in respect of any securities issued by them under that Act.

Effect of neglect to register.

With respect to the effect which the neglect to register may possibly have on the validity of the mortgage, when the Act expressly requires the mortgage to be registered, see the remarks of Vice-Chancellor Malins *In re the Wynn Hall Coal Company* (10 Eq. 521), where a mortgage had not been registered as directed by section 43 of the Companies' Act, 1862. In this case, however, the mortgagees were the directors of the company, who omitted to register the mortgage, and had kept it as a pocket security concealed from the creditors. See also *Ex parte Valpy and Chaplin* (L. R. 7 Ch. 289), and *In re Native Iron Ore Company* (L. R. Ch. D. 345), and the remarks of the Master of the Rolls (Sir George Jessel) on those cases in *In re International Pulp and Paper Company* (L. R. 6 Ch. D.

556), also *In re South Durham Iron Company, Smith's Case* (L. R. 11 Ch. D. 579), and *In re Borough of Hackney Newspaper Company* (L. R. 3 Ch. D. 669). On the other hand, as to the effect which the entry on the register or notice to the local authority of the transfer to a *bonâ fide* holder may have on a mortgage or debenture which originally may have been of doubtful validity, see *Webb and others* v. *The Herne Bay Improvement Commissioners* (L. R. 5 Q. B. 642; 22 L. T. N.S. 745; 39 L. J. N.S. 221), and note 3 on that case at page 13 of the present work; and also *In re Hercules Insurance Company, Brunton's Claim* (L. R. 19 Eq. 302), and the numerous cases there cited, from which it will be seen that the register of the transfer of an invalid security will not in all cases render the security valid. Where the security is manifestly a bad one, it would seem that the transferee may have the right to recover the purchase money from the transferor, on the ground that there has been a failure of the consideration, *Young* v. *Cole*, (4 Sc. 495; 3 Bing. N.C. 730).

Effect of register of transfer to *bonâ fide* holder.

Remedy of transferee against transferor.

The transfers of mortgages under the Commissioners Clauses Act and the Public Health Act are required to be made by deed, duly stamped, truly stating the consideration, and may be according to forms contained in the Schedules to those Acts, or to the like effect. These forms are nearly identical. The one will be found in Appendix (1), and the other under the head of Sanitary Authorities in Chapter IV. The Local Loans Act provides that nominal securities issued thereunder, shall be transferable by writing in manner directed by the local authority (secs. 5, 6, and 7), and that unless otherwise directed by a general rule of the local authority (that is to say, by a rule made by the local authority, with the consent of the Local Government Board, under section 30 of the Act), the instrument of transfer of any nominal security issued by a local authority, shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain owner of such security until the name of the transferee is entered in the register in respect thereof (Rule 2 of Schedule). Under the Public Health Act, the local authority will not be in any way responsible to the transferee until the entry of the transfer is made in the registry.

Transfer of securities.

The last-mentioned Act requires the register of mortgages to be open to public inspection during office hours, at the office of the local authority, without fee or reward, and any clerk or other person having the custody thereof, refusing to allow such

Inspection of register.

inspection, is liable to a penalty not exceeding £5. A penalty not exceeding £20 is also imposed on the clerk, if he wilfully neglects or refuses to make any entry of any transfer in the register. By the Commissioners Clauses Act, no similar penalty is imposed, and although the register may be inspected at all reasonable times without fee or reward, such persons only as are interested in the mortgages have apparently the right of inspection (sec. 76). Under the Local Loans Act (sec. 24), any person may inspect the register at any reasonable time, upon payment of such fee not exceeding 1*s.*, as may be fixed by the local authority, and will be entitled to obtain from the registrar, copies or extracts, certified by him to be true copies or extracts, of such register, upon payment of such fee not exceeding 2*s.* 6*d.*, and 2*d.* for each folio of seventy-two words, as the local authority may from time to time fix. Proceedings may also be taken under this Act in the county court, when the value of the security does not exceed £50, and in other cases in the superior courts, for the rectification of the register, when the name of any person is without sufficient cause entered therein or omitted therefrom; or if default is made, or unnecessary delay takes place in making any entry therein (sec. 25).[1]

Certified copies or extracts from register.

Rectification of register.

General rules under Local Loans Act.

Transfer and transmission of securities

In addition to these provisions, the Schedule to the Local Loans Act, contains certain general rules, which will be found in Appendix (3), and to one of which reference has already been made, with respect to the transfer and transmission of nominal securities; and the local authority are enabled by the Act, from time to time, with the consent of the Local Government Board, to make, and when made, add to, rescind, or alter, such rules as they think fit, with respect to the registry of securities, and the mode of transferring securities not transferable by delivery (sec. 30). By such rules the local authority may add to, rescind, or alter, any of the rules in the Schedule to the Act; but any rules made in pursuance of this power, will not affect any securities issued in respect of any loan, the date of which is prior to the date of such making, rescission, or alteration. On reference to the rules in the Schedule to the Act, it will be seen that they relate to the number of persons

[1] In default of this provision, and in cases where no similar provision is contained in the Act, under which the register is required to be kept, the remedy would apparently be by *mandamus* in the High Court of Justice. See *Norris* v. *Irish Land Company* (8 Ell. & Bl. 525).

who may be registered as joint owners of the same security; the manner in which transferred securities are to be executed; the times not exceeding fourteen days in the year at which the transfer books may be closed; and the transmission of securities on the death or bankruptcy of any owner, or the marriage of any female owner.

Conditions subject to which Local Loans may be raised.

Restrictions and conditions on borrowing powers.

The powers of borrowing possessed by local authorities are exerciseable subject to the various restrictions and conditions imposed by the Acts of Parliament by which they are conferred, and, except in the comparatively few cases in which he is expressly relieved by statute from the consequences of the failure on the part of the local authority to comply with them,[1] it is as necessary for the lender,[2] as for the local authority itself, to see that such of the conditions thus imposed as may effect the validity of the securities created by the authority are duly complied with.[3] Some of these have already been mentioned in the preceding pages, but there are others of much importance which require to be attended to. Thus, when the money is borrowed under the Public Health Act, the sum borrowed may not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and that Act, in the whole the assessable value for two years of

Limit to borrowing under Public Health Act.

[1] For an example of the usual provisions exempting lenders from the obligation of seeing that the local authority have complied with these conditions. See section 107 of the Derby Corporation Act, 1882, Appendix (4).

[2] As to the personal liabilities which the members of a local authority may incur if they neglect to comply with these conditions, see below, pages 16 to 19.

[3] In some cases a *bonâ fide* purchaser for value may be placed in a better condition than the original holder of a local security. See, for example, the case of *Webb* v. *The Herne Bay Improvement Commissioners* (L. R. 5 Q. B. 642; 22 L. T. N.S. 745; 39 L. J. N.S. 221), where it was alleged on behalf of the commissioners that certain mortgages, which, on the face of them, purported to have been executed in pursuance of the powers contained in the Local Act, under which the commissioners acted, had been illegally given, as the consideration for a contract, to the original mortgagee, who was a commissioner, and therefore prohibited from carrying out any contract under the Act, but where it was shown that the mortgages had been registered by the commissioners, and transferred for value to an innocent holder, and the transfers had also been registered by the commissioners, and the interest on the mortgages had been paid for many years. In this case it was held that as the commissioners had issued the mortgages, knowing that they might be assigned, they were estopped from alleging that the mortgages had been illegally issued, and a *mandamus* was issued, commanding the commissioners to apply their funds (amongst other things) in payment of the interest on the mortgages as directed by the Act. For further information as to this case, see note 3 on page 3, and pages 37 and 38.

the premises assessable within the district, in respect of which such money may be borrowed. So also when the loan is required by a Board of Guardians for the purpose of a workhouse, it must not, exclusive of the cost of the site in certain cases, exceed two-thirds of the aggregate amount of rates raised for the relief of the poor within the union during the three years ended at the Easter next preceding the borrowing of the money.[1] Limitations are also imposed on the amounts to be borrowed by other poor law authorities.[2]

Limit to borrowing by poor law authorities.

Limit under Local Acts and Provisional Orders.

When the loan is raised by any local authority under powers given by a local Act, or Provisional Order, a limit is, as a general rule, placed on the amount authorized to be borrowed, and as the local authority have no power to exceed this limit, no sums borrowed in excess of it can be legally charged on the rates or property authorized to be mortgaged.[3]

Sanction of central departments.

Another condition, which is often imposed on the borrowing authority is, that it shall obtain the sanction of some central department of the Government to the raising of the loan. When the borrowing is effected under a Public General Act, this sanction is required, except in a very few exceptional cases, *e.g.*, in the case of certain loans obtained by county authorities, highway boards, and metropolitan vestries, and district boards,[4] and loans secured by sanitary authorities on mortgage of their sewage farms, or on the security of lands, houses, or other property acquired by them under the Artizans' and Labourers' Dwellings Improvement Act, 1875. A similar sanction is sometimes required when the borrowing is effected under a local Act, but more frequently the local authority has hitherto been exempted from such control by the local Act on satisfactory evidence being furnished to Parliament by the promoters of the Act, in the shape of plans and estimates, that the proposed works are desirable. It should, however, be stated that the Select Committee of the House of Commons on Police and Sanitary Regulations appointed during the last

Practice under local Acts.

Recommendation of committee on police and sanitary regulations.

[1] See below in Chapter IV., under borrowing powers of Boards of Guardians.

[2] See, as to the Managers of the Metropolitan Asylums District, the Managers of Sick Asylum Districts, and the Managers of District Schools, under the borrowing powers of these authorities, in Chapter IV.

[3] See *Attorney-General* v. *Corporation of Belfast* (4 Irish Ch. Rep. 119), and *Fountaine* v. *Carmarthen Railway Company* (L. R. 5 Eq. 324), some account of which is given on page 20.

[4] In the case of highway boards, the sanction of the county justices has to be obtained; and in that of metropolitan vestries and district boards, the sanction of the Metropolitan Board of Works.

session, reported that they had thought it expedient in several instances to subject the raising of loans, required for the purposes of the respective bills submitted to them, to the sanction, from time to time, of the Local Government Board, as is required in the case of moneys borrowed under the Public Health Act. And they expressed an opinion to the effect that this requirement might usefully be made in cases of future applications to Parliament of a similar character. Subsequently, by an amendment in the Standing Orders of the House of Commons, proposed by Mr. Sclater-Booth, the late President of the Local Government Board, the committee on every private Bill promoted by, or conferring powers on any local authority or public body having powers of local government or rating, are required to consider the clauses of the Bill with reference (amongst other things) to whether the Bill gives borrowing powers for purposes for which such powers already exist, or may be obtained under General Acts, without subjecting the exercise of the powers under the Bill to approval from time to time by the proper government department. And the committee are further required to report[1] specially to the House in what manner any clauses relating to this matter have been dealt with by the committee. These requirements are now embodied in Standing Order, House of Commons, No. 173a.

Standing Order, House of Commons, No. 173a.

Before any of the above sanctions can be obtained, evidence is usually required by the sanctioning department that the purposes for which the loan is required are such as are authorized by Parliament, and that the proposed expenditure is free from objection. It is very desirable that the sanction should, if practicable, be obtained not only before the works, on which the loan is to be expended, are commenced, but also before the local authority is definitely committed to any expenditure which is intended to be defrayed out of the loan.

Evidence required prior to sanction.

Necessity of obtaining sanction before expenditure incurred

The particular conditions and restrictions subject to which loans may be raised by each local authority, are too numerous to be described in detail in the present chapter. One or two examples of them will perhaps suffice as showing the necessity of circumspection alike on the part of borrowers and lenders. Thus, under the County Buildings Act, 1826,[2] money may be

Other conditions and restrictions.

County Buildings Act, 1826.

[1] This report is required to be printed and circulated with the votes.

[2] The provisions of this Act are set out in Chapter IV. under the head of "County Authorities."

borrowed for certain specified descriptions of works only in cases where the estimate of the cost of such works exceeds one-half of the amount of the ordinary annual assessment of the county, taken on an average of the seven preceding years; and it would seem from the form of mortgage given in the Schedule to the same Act, that mortgages under the Act must be made in open court, and signed by the chairman and two other of the county justices. So under the Lunatic Asylums Act, 1853,[1] the borrowing may only be made by a majority of not less than five of the justices. And money can be borrowed by a poor law authority for workhouses or other institutions, only after an order to provide such workhouse or institution has been made by the Local Government Board, who are only authorized to make such an order with the consent, in writing, of a majority of the members of the borrowing authority, or when a resolution giving consent has been passed at a meeting of the authority, of which meeting, and of the business to be transacted thereat, not less than fourteen days' notice has been given to each member.[2] In order to ascertain precisely what conditions and restrictions apply to each local authority in the raising of its loans, it will, of course, be necessary for the borrower and the lender in each case to refer to the statute by which the loan is authorized to be raised. With a view to facilitate such references, detailed information with respect to the borrowing powers of local authorities under the general law will be given in the Fourth Chapter of the present work.

Lunatic Asylums Act 1853.

Poor law authorities.

Necessity to refer to statute in each case.

Personal liability of members of local authority, when money is borrowed otherwise than in accordance with the statute.

The members of the local authority may incur very serious personal liabilities, if they borrow otherwise than in accordance with the conditions and restrictions of the statutes in each case. The law on this point is thus laid down in the seventh edition of "Addison on Contracts," p. 106. "If they have borrowed money not in conformity with their borrowing powers, or have exceeded their borrowing powers, and have failed consequently to charge the fund at their disposal with the repayment of the loan, and have given the lender no remedy against the rates, tolls, or assessments they are authorized to levy, they may become personally liable, either on the ground that the money was borrowed on their own personal credit, and

[1] See under the head of "County Authorities," in Chapter IV.

[2] See under the head of "Boards of Guardians," in Chapter IV.

not on the credit of the fund, or that they falsely represented to the borrower that they had funds at their disposal for the repayment of the loan, or that they undertook to provide funds for this purpose." As an instance of the responsibility which a chairman incurs in becoming a party to any borrowing other than that authorized by the statute, reference may be made to the case of *Parrott* v. *Eyre* (3 M. & Sc. 857; 10 Bingham, 283), in which the defendant was the chairman at certain meetings of a turnpike trust, at which the clerk had been instructed to apply to the treasurer of the road to advance £2,000 to the trust, *as a temporary loan*, and the treasurer had placed the sum required to the credit of the trustees, but had required no such mortgage as was provided for by the 3 Geo. IV., c. 126, s. 81. In this case the Court of Common Pleas declined to set aside a verdict in which the jury had found that the money had been advanced on the personal credit of the defendants, and this, notwithstanding the wording of the 7 & 8 Geo. IV., c. 24, s. 3, which exempted a trustee from being personally liable, "by reason of his having acted as such trustee, or having signed, or authorized, or directed, any contract or security to be entered into relating to any such road, *unless in such contract or security, such trustee shall have in express words rendered himself so liable.*" In this case, Lord Chief Justice Tyndal is reported to have said, "In order to decide this case, it seems to me, to be enough to say, that there has been no attempt on the part of the defendant, as trustee of the road in question, to pursue the powers given by the Act of Parliament." Mr. Justice Gazelee: "It is clear that the loan was not intended to be a loan in pursuance of the powers vested in the trustees by the Act, and the power given to the trustees is to raise money on mortgage; here the application was for a temporary loan only; it was therefore a question for the jury, whether the parties by their conduct, did not evince an intention to depart from the prescribed mode of borrowing, and I think the facts warrant the conclusion they have come to." Mr. Justice Bosanquet: "I do not find in the Acts referred to, any authority vested in the trustees to give a security for a temporary loan; and if they could not give such security, the finding of the jury is correct. The argument urged on behalf of the defendants, that the resolution signed by the chairman in relation to the application for the loan of this money, showed that it was the intention of the parties that the

Parrott v. *Eyre.*

Temporary loans.

trust fund alone should be held responsible for its repayment, was a very proper topic to address to the jury, though they do not seem to have attached much weight to it. It does not follow that because the trustees are authorized to borrow money in a particular manner, the plaintiff is in this case bound to look to other security than that of the borrower." Referring to sec. 3 of the 7 & 8 Geo. IV., c. 24, Mr. Justice Bosanquet observed: "the contract or security must be one that the party enters into in his representative capacity, and one that he is authorized to make. If a trustee enters into a contract that is not warranted by the Act, his liability is the same as that of any other person. It does not follow that because he is a trustee, every contract he enters into, is entered into in that character. The manifest object of the legislature was to protect persons who fill the office of trustees, where they are acting in the due and proper discharge of their duty. If they act personally, they must abide the consequences."

Higgins v. *Livingstone.*

On the question of the general liability of local authorities in this class of cases, Lord Eldon, in the case of *Higgins* v. *Livingstone* (4 Dow. 355), is reported to have said: "If I were to give an opinion, I would say that when persons act under a Parliamentary trust, and state themselves as so acting, they are not to be held as personally liable. But this also, I think, rests on strong principle, that, as the trustees must know whether there are funds to answer the purpose, they, when they contract with others, who do not know, act as if representing that they have a fund applicable to the object, and are then personally bound to provide funds to pay the contractors." See also on the same point, *Horsley* v. *Bell* (Amb. 770, 1 Bro. Ch. Ca. 101 n., and 4 Dow. 354 n.), and *Eaton* v. *Bell* (5 B. & Ald. 41). The latter case was one of an overdrawn account. An Inclosure Act had empowered certain commissioners to make a rate to defray the expenses of passing and executing the Act, and had enacted that persons advancing money should be repaid out of the first money raised by the commissioners. Expenses were incurred in the execution of the Act before any rate was made, to defray which the commissioners drew drafts upon their bankers, requiring them to pay the sums mentioned in such drafts on account of the public drainage, and to place the same to their account as commissioners. The bankers for some years continued to advance considerable sums under this arrangement. Rates were levied on two occasions by the commissioners, and applied *pro tanto* in diminution of the amount owing to the

Horsley v. *Bell.*
Eaton v. *Bell.*
Overdrawn account.

bankers, the account continuing open, but the plaintiffs being in advance to the defendants. At length a balance was struck, the bankers charging compound interest with half-yearly rests for many years on the overdrawn account. The Court of King's Bench held the commissioners personally responsible, and required them to pay, not only the principal, but the interest so charged. In this case, Sir John Bayley observed: "The defendants must have known what they had collected, and what means they had of collecting more; and they ought to have taken care, before they drew drafts, that they had money to reimburse the persons who advanced money on those drafts." The unpleasant significance of this case should be noted by local authorities who are in the habit of being overdrawn at their bankers.

Personal liability of members when borrowed moneys are misapplied.

Nor should the personal liabilities, which may be incurred by the members of a local authority in connexion with the application of borrowed money, be lost sight of. It is their duty, when they are authorized to borrow money for one purpose, to see that it is applied, when borrowed, to that purpose; and in the event of their neglecting to do so, the Chancery Division would probably hold them personally answerable for the moneys misapplied, on the ground that they are trustees of such moneys. See *Attorney-General* v. *Corporation of Belfast* (4 Irish Ch. Rep. 119), *Attorney-General* v. *Corporation of Dublin* (1 Bli. N.S. 313; s. c. 4 Ir. L. Rec. 289; 3 C. & F. 289; 9 Bli. N.S. 39), *Attorney-General* v. *Corporation of Limerick* (6 Dow. H. L. 136), *Attorney-General* v. *Brown* (1 *Swans*, 265), *Parr* v. *Attorney-General* (8 C. & F. 409). And in every case in which such a breach of trust has taken place, the responsibility will not necessarily be confined to the members, who have been actively concerned in such misapplication, but may extend to those who, by their absence and negligence, have contributed to it. *Charitable Corporation* v. *Sutton* (2 Atk. 400). And where the liability arises through the wrongful act of several members, each is liable for all the consequences, and there will be no contribution between them, but proceedings may be taken against any one or more, without making the others parties to the action. *Attorney-General* v. *Wilson* (1 Cr. & P. 1); *Attorney-General* v. *Compton* (1 Y. & C. C. C. 417); *Ferguson* v. *The Earl of Kinnoul* (9 C. & F. 251.)

Attorney-General v. *Belfast Corporation*, &c.

Securities created in excess of borrowing powers.

In the absence of any special provision to the contrary, such as is contained in section 107 of the Derby Corporation Act, 1882 (which will be found in Appendix (4)), any local security

created in excess of the borrowing powers of a local authority, is void as against the rates and property purported to be charged thereby, without prejudice, however, to the rights of the holder against the members of the local authority personally, and this, notwithstanding that subsequently, by the payment off of other securities, the local authority have regained a margin of unexhausted borrowing powers. See *Attorney-General* v. *Corporation of Belfast* (4 Irish Ch. Rep. 119), where the corporation had borrowed in excess of the £150,000 authorized to be borrowed under a local Act, and the petitioner was declared entitled to have the rates and other properties of the borough exonerated from and indemnified by the sixteen members of the corporation, who were made respondents, against the loans which had been raised by the corporation in excess of that amount, and the interest thereof. See also *Fountaine* v. *Carmarthen Railway Company* (L. R. 5 Eq. 324). In this case, which was that of a company, the directors of the company had raised £500 in excess of their borrowing powers, and Vice-Chancellor Wood said: "As regards the lender, I think his case particularly unfortunate, but the whole money was raised, and I see no way of relieving him. How far the directors, who do these unconscionable things, may or may not be personally liable, it is not now for me to consider. The debenture was void *ab initio*, and I cannot hold that the circumstance of the company afterwards having means, can enable me to treat that which was void *ab initio* as an existing security." In such a case, the only means of putting the matter straight, would appear to be for the local authority to obtain either an Act of Parliament or a Provisional Order[1] to legitimise the securities so given, or to give the holders new securities in lieu of them. For the necessary provisions for this purpose, see below in Chapter V., under the head of "Provisional Orders under Section 303 of the Public Health Act, 1875."

Retrospective loans.

Rex. v. *Dursley.*

As a general rule loans may not be raised by local authorities, on account of works which have long since been carried out Thus in *Rex.* v. *Dursley* (5 A. & E. 10), it was held that under the 59 Geo. III., c. 134, s. 14, churchwardens could not raise a loan on the credit of the church rates to pay a debt for repairs incurred

[1] A Provisional Order will only be applicable in cases where it can be obtained under section 297 or 303 of the Public Health Act, 1875.

some years before it was decided to borrow the money. The loan ought, in the opinion of the court, to have been raised at the time when the repairs were done, and the levying of the rates for the repayment should have commenced immediately, and have continued so as to pay off the debt by ten annual instalments. See also *Piggott* v. *Bearblock* (4 Moore's P. C. 399). But in *Reg.* v. *Churchwardens of St. Michael's, Southampton* (6 Ell. & Bl. 807), where the consent to borrow was given in 1827, and the work was done between 1826 and 1830, and bonds were given to the contracter in 1830, in payment of the balance due to him on his contract, it was held that there had been no undue delay in the borrowing, and that the conditions to borrow ought not to have been acted upon before the money was wanted for payment, because any loan before that time would have been a waste of interest.

Period during which local loans remain a charge upon the rates.

It will depend upon the wording of the statute in each case for how long a period the rates will remain charged with the repayment of a local loan, and a very slight alteration in the words by which the borrowing power is conferred may be of vital importance to the lender in this respect. In *Rex.* v. *Overseers of Hurstbourne Tarrant* (Ell. Bl. & Ell. 246), where there was a power to charge the rates generally, and a direction to pay the money off by annual instalments (6 & 7 Will. IV., c. 96, s. 3), of not less than one fifth each, and some part of the principal remained due at the expiration of five years, after the money had been borrowed, the lender obtained a *mandamus*, requiring the overseers to pay the money due upon the bond, notwithstanding that more than the five years had elapsed. It was, however, held in this case that the applicant was bound to come promptly to the court, or to explain his delay; but (*dubitante* Crompton J.) that in the particular case the delay was sufficiently explained. See also as to necessity of applying promptly for the repayment of money due on a local security in such a case, *Rex.* v. *Overseers of Wood Dalling* (6 A. & E. 798. n.)

Rex. v. *Overseers of Hurstbourne Tarrant.*

In *Rex.* v. *Carpenter* (6 A. & E. 795), where money had been lent after the passing of the 43 Geo. III., c. 110, s. 2, which provided that a twentieth part at least of the sums borrowed under 22 Geo. III., c. 83, s. 20, should be paid off or provided for in each year, it was held that this provision did not extinguish the debt in a case where no such payment or provision had been made for twenty years. And on the application of the lender who had advanced the money more than twenty years before

Rex. v. *Carpenter.*

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the application, although the parish had not paid or provided for any part of the principal, the court granted a *mandamus* to pay the principal and interest due. But they refused to grant a *mandamus* to make a rate to pay the principal and interest.

Reg. v. *St. Michael's, Southampton.*

This decision was followed in *Reg.* v. *Churchwardens of St. Michael's, Southampton*, (6 Ell. & Bl. 807), where the money had been borrowed under the 58 Geo. III., c. 45, s. 59, which enabled the churchwardens to borrow on the credit of the rates of the parish, and to make rates for the payment of the interest of the money so borrowed, *and for providing a fund of not less than the amount of the interest upon the sum advanced for the repayment of the principal thereof*,[1] and for repaying such principal at such times and in such manner as might be agreed upon with the persons advancing the money.

Distinction between these cases and *Reg.* v. *Churchwardens of Wigan.*

In each of the above cases, it will be observed, there was a general power to charge the rates and a direction to provide for the repayment of the loan by certain means which, if adopted, would secure the repayment within a certain period. Where, however, the money is only authorized to be borrowed *on the condition* that it shall be repaid within a given period, the mortgagee can only charge the rates for that period. See *Reg.* v. *Churchwardens of Wigan*, which is of so much importance as defining the law on this point, that the parts of it which relate to this question are set out in Appendix (6).

Course to be taken by lender in these cases.

From the above cases, it would appear to be unwise for the lender in any instance to refrain from enforcing the repayment of his loan as soon as practicable after the expiration of the period contemplated by the statute for its repayment, and in many instances, if he is prudent, he will, before the expiration of that period, satisfy himself as to the provisions which the local authority are making for meeting the loan when it falls due.[2] It is no part of his duty to see that the local authority is complying with its statutory requirements in this respect. *Reg.* v. *Overseers of St. Michael's, Southampton* (6 Ell. & Bl. 807), *Rex.* v. *Carpenter* (6 A. & E. 794). But the Court of Queen's Bench

[1] This is an early form of sinking fund provisions. If the money was borrowed at 5 per cent., the usual rate payable at that time, it would repay the loan in twenty years without accumulations. See the remarks of Sir William Follett, in *Rex.* v. *Churchwardens of St. Michael's, Pembroke*, as given in the note on the next page.

[2] In some cases the Act requires an annual return to be made to a Central Department, showing the provision which the local authority are making for securing the discharge of the loan. See under the head "Annual Returns of the Local Government Board," in Chapter II.

has, on one occasion, on the application of a mortgagee, granted a *mandamus*, directing the authority to comply with them. In the case in question, *Rex.* v. *the Churchwardens of St. Michael's, Pembroke* (5 A. & E. 603, 1 N. & P. 69), the churchwardens, under the 59 Geo. III. c. 134, s. 40, had borrowed £1000 on the credit of the church rates, agreeing with the mortgagee that the money should not be called in for twenty years, unless the churchwardens should be desirous of paying off the same at any time before. The interest having fallen in arrear for one year, the mortgagee obtained a *mandamus*, commanding the churchwardens not only to raise, by a rate to be made for that purpose, a sufficient sum of money for payment of the interest due upon the £1000, and to pay over the same to the mortgagee, but also to raise, by rate, the sum which had been required by the Act to be set aside for the repayment of the principal. In this case, Lord Denman observed: "It is necessary to give the statute the beneficial effect which it was intended to have, namely, that of making the parish raise portions of the principal from year to year, without any violent change in the amount of taxation. The *mandamus* therefore must go to raise the interest now due, and also to raise a sum equal to the aggregate of the interest of the years elapsed.[1] With further reference to the risk which a lender runs, if he allows his interest to get into arrear, or neglects to claim his principal when it becomes due, see the remarks of Lord Lyndhurst, in *Drewry* v. *Barnes* (3 Russ. 94). See also on the same point, *ex parte Fowlser* (1 Jac. & W. 70), and *Lanchester* v. *Thomson* (5 Mad. 4).

Rex. v. *St. Michael's, Pembroke.*

Whether or not a local authority may raise its loans by the issue of securities at a discount, will apparently depend upon the wording of the provisions by which the power of borrowing is conferred in each case. In *In re Anglo-Danubian Steam Navigation and Colliery Company* (L. R., 20 Eq. 341), where the power was to secure the repayment of *or raise* any money authorized to be borrowed by the company by mortgage of the undertaking, &c., and the debentures had been issued at a

Raising of loans at a discount.

In re Anglo-Danubian Steam Navigation and Colliery Company.

[1] In this case the money was borrowed for twenty years at 5 per cent. An annual reservation of a sum equivalent to the interest would therefore exactly satisfy the debt at the end of the twenty years; and as Sir William Follett pointed out in his argument, it was probably with a view to this, that the parties fixed twenty years for the final liquidation of the debt. The words of the statute empowered the churchwardens to make rates "for the payment of the interest of such sum or sums of money so to be borrowed and raised, *and for providing a fund of not less than the amount of the interest of the sum advanced for the repayment of the principal thereof.*"

discount of 25 per cent, the Master of the Rolls (Sir George Jessell) said: "I have no doubt whatever that these are very good debentures. The draftsman has evidently inserted the word 'raise' to prevent it being contended that the directors could only secure the repayment of money borrowed. He makes a distinction between raising money by giving security for any amount and securing the repayment of money by giving security, which is to be limited to the money borrowed. Here the directors raised money by giving debentures for more than the money borrowed. There is nothing in these articles to limit the amount of interest. The directors might give 10 per cent., 20 per cent., or 30 per cent., and they give the interest by way of discount." See also as to the issue of debentures at a discount, *In re Compagnie Générale de Bellegarde* (L. R. 4 Ch. D. 470).

In re Compagnie Generale de Bellegarde.

Covenant may be good, though mortgage bad.

There may be cases in which a covenant for the repayment of the money borrowed may be good, though the mortgage in which the covenant is contained is bad. See *Payne* v. *Mayor, &c., of Brecon* (3 H. & N. 572), where a covenant to repay was held to be valid, although contained in a mortgage deed made without the approval of the Treasury, as required by section 94 of the Municipal Corporations Act (5 & 6 Will. IV., c. 76).

Reborrowing.

Necessity for power to reborrow.

It frequently happens that lenders are unwilling to advance money for the whole period allowed to local authorities by statute for the repayment of their loans, or that the terms on which the advance is offered are such that the local authority will only accept the loan for a short period. For example, where a loan is required by statute to be repaid within thirty years, a lender may be unwilling to lend it, or the local authority to borrow it, for more than five years. In such a case, power should be given by the statute to the local authority to reborrow the money, or at any rate a proportionate part of it at the end of the five years, on terms of its repayment within twenty-five years or any lesser period. And so on from time to time until the expiration of the thirty years within which the money is required by the statute to be repaid.

Instances of insufficient powers of reborrowing.

This power is now usually given in local Acts and Provisional Orders; but in many of the older Acts it has either been omitted, or given only in cases where the reborrowing can be effected at a lower rate than the original borrowing. The

power to reborrow is thus restricted by section 80[1] of the Commissioners Clauses Act, 1847, to the great inconvenience of authorities borrowing under Acts[2] with which the provisions of that Act relating to mortgages are incorporated. Had it not been for the fact that the rate of interest on local loans has been falling of late years, this restriction might have been productive of very serious consequences. As it is, it not unfrequently happens that under these Acts the local authority is unable to reborrow at a lower rate of interest than that payable on the loan which it becomes necessary to pay off; and in such a case, if no time has been fixed in the security for the repayment of the principal, the holder of the security can, under section 82 of the Commissioners Clauses Act, demand repayment of the principal at six months' notice, at any time after the expiration of twelve months from the date of the security; and, if there is not enough in the sinking fund to meet the demand, and no other power of reborrowing is available, the local authority will be compelled to pay off the security out of current rates or revenue, so far as the sinking fund is insufficient for the purpose.

Commissioners Clauses Act, 1847, sec. 80.

To prevent any such unpleasant consequences, it will be well for local authorities borrowing under these Acts, so to arrange the periods for the repayment of their loans, that the amount in the sinking fund shall, from time to time, be sufficient to pay off their mortgages as they fall due. This will not always be an easy task; but the only alternatives are to run the risk above referred to; or if the Act is a local Act, to get it amended either by another local Act, or by a Provisional Order under section 303 of the Public Health Act, 1875; or to reborrow in pursuance of the power given by section 31 of the Local Loans Act, 1875. That section purports to enable any local authority from time to time to reborrow money in manner provided by that Act (that is, by issue of the particular kinds of securities which are authorized by that Act, as to which see page 6) for the purpose of discharging any loans lawfully contracted by them either before or after the passing of that Act, provided that the time for the repayment of any money so borrowed shall not be extended beyond the unexpired portion of the term for which the original loan was contracted, unless with the sanction of the Local

Local Loans Act, 1875, sec. 31.

[1] See Appendix (1).

[2] As to these Acts, see note 2 on page 40.

Government Board, and in no case shall be extended beyond the prescribed period (*i.e.*, the period prescribed by the Special Act for the repayment of the loan). To reborrow, therefore, under this section, will necessitate the issue of debentures or annuity certificates (or debenture stock, in the comparatively few instances, in which the local authority have power to issue it;) and if it is desired to borrow for a longer period than the unexpired portion of the term for which the original loan was contracted (which will nearly always be the case) will also necessitate an application to the Local Government Board for an extension of the term. Moreover, if no period is prescribed by the Special Act for the repayment of the loan, the prescribed period is required by section 13 of the Local Loans Act, to be taken to be twenty years;[1] and if, as would seem to be the case, this period is to run from the date of the original borrowing, it is manifest that in many cases the benefit, which at first sight seems to have been given by section 31 of the Local Loans Act, will be rather apparent than real, for this period may either have already expired, or have so nearly run out, that it will not be worth while to reborrow the money for the small term still remaining.

Sec. 13.

It should also be noted that when money has once been borrowed in manner provided by the Local Loans Act, it is very doubtful, whatever the local authority will have power under that Act to reborrow to pay off the securities as they fall due. Such a power has been expressly given in some local Acts and Provisional Orders,[2] which, to this extent, have amended the Local Loans Act; but in the absence of an express enactment to that effect, it is by no means clear that a local authority will possess this power. For it is certainly contemplated by section 13 that the loan shall be discharged by one or other of the methods there specified, and not by being redeemed out of borrowed money.

Where powers satisfactory, caution in reborrowing necessary.

Assuming, however, that satisfactory powers of reborrowing are possessed by the local authority, it will be necessary, in ordinary cases, to exercise some care in the reborrowing, so as not to lose the trace in any instance of the original loan and

[1] With respect to the inconvenience caused by this requirement, see note to section 13 in Appendix (3).

[2] See *e.g.* The Derby Corporation Act, 1882 (45 & 46 Vict., c. ccxlv., s. 123) which is set out in the note to section 31 of the Local Loans Act, Appendix (3).

the obligation to repay. For example, supposing the local authority has power to borrow under a general Act, one loan of £1000, repayable in five years, another of the same amount repayable in ten years, another repayable in fifteen years, and so on, and these loans are borrowed in small sums by means of mortgages for short periods, the Act would probably require the establishment of a sinking fund for securing the repayment of each of these loans within the period for which it has been sanctioned. Some confusion (which it will be desirable, if possible, to avoid) may be created if the local authority reborrow of one mortgagee in one mortgage, sums falling due in respect of more than one of these loans. Where, however, this is inevitable, these sums should, as a matter of account, be kept separate, so as to show the liability of the local authority to pay off each sum within the period authorized by the sanction under which it was originally borrowed, and the terms of the mortgage should be such as to enable the local authority to pay off each sum within the period sanctioned, for, when that period has expired, the question will arise as to whether the rates are any longer charged with the repayment of the principal or interest of any part of the money borrowed under the sanction.[1] Where the loans of a local authority are numerous, and are required by the statute or sanction under which they are raised to be repaid within different periods, it will be well, if practicable, to avoid raising them by means of several mortgages of small amount, repayable at short periods, if for no other reason, because of the difficulty there will be in following the above rules.

Loans repaid by sinking funds, &c., not to be reborrowed.

When the whole or any part of a loan has been paid off by means of a sinking fund, or by instalments or annual repayments, it should not afterwards be reborrowed. To reborrow in such cases is expressly prohibited in the majority of recent local Acts; but even where there is no express prohibition, the reborrowing would be contrary to the principles of repayment contemplated by the Act, which are that the loans should be gradually reduced by annual repayments or payments into a sinking fund, and that such part only of the loan as is not thus repaid from time to time should be reborrowed. To reborrow money which has been properly repaid by the ratepayers of one year, will be to impose upon future ratepayers

[1] See above pages 21 and 22, and the cases there cited. See also *Drewry* v. *Barnes* (3 Russ. 94).

Nor loans which the sinking fund is large enough to repay.

a burden which it was not the intention of Parliament that they should bear.[1] Nor will it usually be desirable to reborrow any part of a loan, which there is enough money in the sinking fund to repay. For, besides the chances of future misappropriation, the investments of the sinking fund will usually carry a lower rate of interest than that payable on the loan; and the more rapidly, therefore, that the sinking fund can be applied in the repayment of the loan, the better it will be for the ratepayers.

Reborrowing does not usually affect sinking fund obligations.

The reborrowing of a loan will, as a general rule, make no alteration in the obligations of the local authority with respect to the sinking fund, except in cases

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[1] The above remarks are intended to apply to cases where there is no power to borrow and reborrow *toties quoties*, and where the money is not authorized to be reborrowed for the purpose of other works; but it is not clear that they will not apply even where, at first sight, such a power seems to be given by the statute. See *Attorney-General* v. *Mayor, &c., of Cambridge* (6 L. R. H. L. 303; 22 W. R. 37). In that case, the Corporation of Cambridge were empowered by section 13 of the Cambridge Corporation Act, 1850 (13 & 14 Vict., c. 37), to borrow on mortgage or bond any sum or sums of money not exceeding on the whole £40,000, and in the event of any part of such moneys being repaid by them, to reborrow the same, but so nevertheless that there should not be owing on the security of that Act and the incorporated Acts any more in the whole than the sum of £40,000 at any one time. The provisions of the Commissioners Clauses Act, 1847, with respect to mortgages, were incorporated with the Act, and, by section 22 of the Act it was provided that the sum to be annually set apart and appropriated out of the borough fund as a sinking fund, to be applied in paying off the principal moneys borrowed or secured on mortgage under the provisions of that Act, or of the Acts incorporated therewith, should be such part of the moneys from time to time so borrowed as aforesaid as the corporation from time to time order, not being less than £1 for every £100 so borrowed. The corporation had borrowed £40,000 and had repaid £32,000. There was no evidence as to how the latter amount had been repaid, but it was argued that the whole £40,000 having been borrowed, the power to borrow was exhausted. In this case, Lord Chelmsford said: "I do not think it at all necessary to enter into the question whether supposing the whole of the £40,000 had been repaid out of the sinking fund, there would still remain in the respondents the power to reborrow any further sum whatever. When it is contended that they have no reborrowing power existing, those who make that contention ought to have shown that the money had been repaid out of the sinking fund and not repaid out of the other funds of the corporation." Lord Colonsay: "It is said that they are not entitled to borrow money or to apply money to this purpose, inasmuch as it is a duty to keep up the sinking fund, and that if they paid off anything out of that sinking fund they would have no power to reborrow. Now, I do not find here any statement either as to the sinking fund, or to the mode in which the sinking fund has been used. I do not find any evidence as to what was paid into the sinking fund, or as to what is now in the sinking fund, or as to what has been taken out of the sinking fund, or that any part of what was the sinking fund had been applied to the repayment of the sums borrowed. I cannot, therefore, accept that statement as correct, and I cannot hold that there is any misuse of the powers conferred upon the respondents."

where the sanctioning authority extend the period for the repayment of the loan.[1]

Persons Authorized to Invest in Local Securities.

Trustees empowered to invest in Metropolitan Consolidated Stock.

Section 13 of the Metropolitan Board of Works (Loans) Act, 1871, enables any trustee, executor, or other person empowered to invest money in public stocks and funds or other Government securities, unless forbidden by the will or other instrument under which he acts, whether prior in date to that Act or not, to invest the same in Metropolitan Consolidated Stock.

This section has greatly conduced to enable the Metropolitan Board of Works to obtain their loans at a reduced rate of interest; and as the majority of the Metropolitan loans are obtained through the agency of the Board of Works, it has had the effect of considerably relieving the burdens borne by the ratepayers of the Metropolis. The same privilege however, so far as the present writer is aware, has not at present been conceded to the local authority of any provincial town, although attempts have from time to time been made to obtain it by means of local Acts.[2] A

[1] *E.g.*, under section 234 of the Public Health Act, 1875.

[2] It is not an easy question to determine whether or not the power of trustees to invest in local securities ought to be further extended, and if so, to what extent. There can be no doubt that the securities of many local authorities are quite as safe investments as those of the Metropolitan Board of Works; but it would be extremely difficult and invidious to draw a hard and fast line by Act of Parliament, specifying by name the particular local authorities in whose securities trustees might invest; and if any such course were adopted, many local authorities excluded from the list would probably have just cause of complaint. It is not merely the magnitude of a town which renders its securities safe investments. The very magnitude of the businesses which the local authority carries on, *e.g.* a gigantic gas or water undertaking purchased perhaps at a price in excess of its market value, may be a source of danger to the local finances. A first charge of a few hundred pounds on the rates of a rural union is often a safer investment than a mortgage of the rates of a large town, which may be already in debt to the extent of three, four, or five times its rateable value, and the local finances of which may possibly have been mismanaged or be liable to be injuriously affected by the vicissitudes of trade. On behalf of the power to invest in local securities being given to trustees, it may, however, be urged that by the existing law, trustees are allowed to invest in real securities (22 & 23 Vict., c. 35, s. 32). Mortgages of the rates of a town or large rural district are, as a rule, far safer investments than mortgages of land or houses. Circumstances may often arise in which any particular piece of land or any two or three houses may become so depreciated in value as to become most insufficient securities for the purposes of the mortgagees. But the local rates which are usually leviable in respect of the land and houses to an unlimited amount, and which are recoverable in case of default, by distress of the goods and chattels of the ratepayers, if they are legally charged by the mortgage in the first instance, cannot well become an insufficient security so long as there remain any ratepayers on whom the distress can be levied.

more limited power of investing in local securities has, however, been given to trustees and executors both by the Local Loans Act, 1875, and the local Acts of the last few years, which have authorized the creation of corporation and county stock.

Securities issued under the Local Loans Act, 1875.

Section 27 of the Local Loans Act, 1875, provides that any trustees or other persons for the time being authorized or directed to invest any moneys in the debentures or debenture stock of railway or other company, shall, unless the contrary is provided by the instrument, authorizing or directing such investment, have the same power of investing such moneys in any nominal debentures or debenture stock (*i.e.*, in any debentures in which the principal sums are made payable to the person or persons named therein, his or their executors, administrators, or assigns, or debenture stock, in respect of which a stock certificate to bearer has not been issued under that Act),[1] as they have of investing such money in debentures or debenture stock of any railway or other company as aforesaid.

Corporation and county stock.

The local Acts of late years, which have authorized the creation of corporation and county stock,[2] have extended the power of investment given by section 27 of the Local Loans Act, 1875, to such corporation and county stock, subject to provisions prohibiting trustees from applying for or holding stock certificates to bearer, unless authorized to do so by the terms of their trusts, and making any contravention of this enactment a breach of trust.[3] In the local Acts of the last session the power of trustees to invest in this description of stock was subjected to a proviso that where two or more persons are interested in trust money, no investment thereof shall be made in redeemable stock at a price exceeding the redemption value of the stock. See *e.g.* section 106 of the Derby Corporation Act, 1882, which will be found in Appendix (4).

[1] See sections 5 and 6 of the Local Loans Act, 1875, Appendix (3).

[2] *I.e*, the stock, as to which information is given below in Chapter VI.

[3] See *e.g.*, the Hull Corporation Loans Act, 1881 (44 & 45 Vict., c. xciv,, ss. 10, 24) and the Lancashire County Justices Act, 1881 (44 & 45 Vict., c. xcv., ss. 41, 55). It will be observed, on reference to these sections, that this provision will not impose on the registrar any obligation to inquire whether a person applying for or holding a stock certificate to bearer, or coupon, is or is not a trustee, or subject the registrar or the local authority to any liability in the event of his issuing to a trustee a stock certificate to bearer, or coupon, or dealing with a trustee as the holder of a stock certificate to bearer, or coupon, or invalidate any stock certificate to bearer, or coupon issued to a trustee.

CHAPTER II.

THE REPAYMENT OF LOANS BY LOCAL AUTHORITIES.

Remedies for the Recovery of Local Loans.

Repayment of loans regarded from two points of view.

In this chapter it will be necessary to regard the repayment of their loans by local authorities from two aspects, and it will be convenient, in the first place, to consider the means which may be taken by the lender to enforce the repayment of the moneys advanced by him when they become due; and afterwards to explain the steps which the local authorities are required by statute to take from year to year in order to ensure that their loans shall be gradually paid off, and that the ratepayers of successive years shall respectively contribute, in their due proportion, towards such repayment. That the provision which the local authorities are required by statute to make for the gradual repayment of their loans, may affect the remedy of the lender for the recovery of the moneys advanced by him, especially as regards the period within which such moneys may be recovered, has already been shown by reference to the cases quoted in pages 21 to 23. With further reference to this point, the reader may now be referred to the case of *Preston* v. *the Corporation of Great Yarmouth* (L. R. 7 Ch. 655), where no time had been fixed in the mortgage deed for the repayment of the principal, but the corporation were required by their local Act to pay off one bond of £100, to be chosen by lot, in every year. In this case, the corporation having complied with this requirement—except in two years, as to one of which it was said that there had been an oversight—and the interest on the mortgages having been regularly paid, it was held by the Lords Justices, affirming the decision of Vice-Chancellor Bacon, that the mortgagees were not entitled to immediate payment out of the rates or to a receiver of the rates, but merely to their chance of being repaid in the manner provided by the Act in the event of their bond being chosen by lot. On the other hand, in *Hopkins* v. *Worcester and Bir-*

mingham Canal Proprietors (L. R. 6 Eq. 443), where no time had been fixed in the mortgage deed for the repayment of the principal, and no provision was made by the Act for such repayment, the Court of Chancery appointed a receiver.

Paucity of cases in which remedies have been put in force.

Fortunately for the credit of local authorities, the cases in which lenders have been compelled to put in force the remedies given to them by the law for the recovery of moneys due on local securities, have been comparatively rare, and where they have occurred, the withholding of the money has not, as a general rule, been the result of financial difficulties, but rather of doubts as to the validity of the security. As, however, it is desirable that the lender before parting with his money should be satisfied as to the nature of the remedies which he will have for its recovery in the event of any default in its repayment, it will be necessary to discuss the law as to these remedies at some length in these pages.

Nature of remedies.

In the comparatively rare instances[1] in which the security given by the local authority is a mortgage of land or other real property, the lender will, independently of any remedies given to him by the mortgage deed, have the statutory powers of sale, insurance, and the appointment of a receiver, contained in sections 11 to 24 of the 23 & 24 Vict., c. 145, and sections 19 to 24 of the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and will be able also, if necessary, to take steps, in the same manner as other mortgagees, for the foreclosure of the mortgaged property. Where, however, as is usually the case, the money borrowed is secured by a mortgage of the rates or revenues of the local authority, it is obvious that the ordinary remedies of a lender, who advances money on the security of property, will be inapplicable, for a rate can neither be sold or foreclosed, and neither of these remedies would usually be enforceable against the revenues of the local authority. It becomes, therefore, necessary in such a case, to have recourse to some other machinery for the purpose of enabling the lender to enforce the repayment of the moneys due to him. The two most important remedies, which are given by law in such a case, are the appointment of a receiver, and the obtaining of a *mandamus*, requiring the local authority to pay the money owing on the security, and to take the necessary steps for this purpose. It will be convenient, in the first place, to discuss

Where no express statutory remedy.

[1] As to these cases, see above, at p. 3.

the law with respect to each of these remedies in cases where they are not given by express statutory provisions.

Appointment of receiver of tolls, &c., by Court of Chancery.

In the case of *De Winter* v. *the Mayor, &c., of Brecon* (26 Bea. 533), the Master of the Rolls held that it was not necessary that the Act of Parliament should give the Court of Chancery a power to appoint a receiver of market tolls, in order to enable the Court to do so; and that where an Act of Parliament authorizes a mortgage, it authorizes as an incident of it, all necessary remedies to compel payment, and, in the case of market tolls, a power to the Court of Chancery to appoint a receiver. At the same time he expressed an opinion to the effect that the receiver ought not to have committed to him any powers of management, which ought properly to be exercised by the local authority. The Court of Chancery has also appointed, in similar cases, a receiver of the rents, profits, and income of turnpike tolls and toll-houses, *Lord Crewe* v. *Edleston* (1 De G. and J. 93; 3 Jur. N. S. 128), and *Dumville* v. *Ashbrooke* (3 Russ. 98 n.); of the rates, tolls, duties, and other property of a railway company, *Fripp* v. *the Chard Railway Company* (11 Jur. 887; 11 Hare, 241), and *Gardner* v. *the London, Chatham, and Dover Railway Company* (L. R. 2 Ch. 207); of a canal company, *Potts* v. *the Warwick and Birmingham Canal Navigation Company* (Kay, 142), and *Hopkins* v. *the Worcester and Birmingham Canal Proprietors* (L. R. 6 Eq. 437); and of a dock company, *Ames* v. *the Trustees of the Birkenhead Docks* (20 Bea. 332). There seems to be no reason to believe that a receiver might not, in similar circumstances, be appointed by the Chancery Division at the instance of a mortgagee, to receive the revenues of any undertaking belonging to a local authority, and charged by the mortgage with the payment of the principal and interest thereby secured.

Distinction where rates only are mortgaged.

Where, however, the security is charged upon the local rates only, a distinction has been made. In the case of *Drewry* v. *Barnes* (3 Russ. 94), where, it may be mentioned, the plaintiff had forfeited his right to relief on other grounds, the Master of the Rolls (Lord Lyndhurst) observed: "No case has been cited of the appointment of a receiver by this Court, where the rates were to be fixed by a future assessment, and to be collected at a future period. A case has been referred to, in which it was said that a receiver of tolls might be appointed, but that doctrine was applied to circumstances very different from those which occur here. The tolls, of which it was said

that a receiver might be appointed, were fixed payments; they were in the nature of rent; here there is no fixed sum to be paid; it is the commissioners who are to impose the rate; and until the rate be imposed by them, there is nothing which a receiver could collect. Suppose that the rate imposed by the commissioners were not sufficient to answer the other purposes of the Act, and to keep down the interest on the bonds, what would be the next step to be adopted? The parties would have to apply to the Court of King's Bench, in order to compel the commissioners to make an adequate rate. But in the same motion on which they are ordered to make a rate, directions may be given as to the mode in which the proceeds of the rate are to be applied. Why, then, come to this Court for relief, when it may be requisite that something should be done, which a Court of Equity cannot do, and all that is necessary to do may be done by a Court of Law? To appoint a receiver of such rates would be productive of great public mischief, and of extreme inconvenience to this particular parish in the administration of its parochial concerns."

Referring to this case in *Preston* v. *The Corporation of Great Yarmouth* (L. R. 7 Ch. 657 *n.*), Vice-Chancellor Bacon is reported to have said: "that *it might be doubted* whether a receiver could *levy rates*, and whether a justice of the peace could give him power to distrain. In *Fletcher* v. *Gibbon*," he added, (as to which case see below), "the Court directed an account to be taken, but even then did not appoint a receiver." It is to be observed that in affirming the decision of Vice-Chancellor Bacon in this case, the Lords Justices held that the plaintiffs were disentitled to relief upon other grounds, and expressed no opinion as to whether or not under other circumstances the Court of Chancery would appoint a receiver of rates.

Remedy given in case of *Fletcher* v. *Gibbon*.

In the case of *Fletcher* v. *Gibbon* above referred to (23 Bea. 223), the validity of a mortgage had been disputed by commissioners under a local Act, who had consequently ceased to pay interest thereon, and a suit had been instituted in the Court of Chancery to enforce payment of the interest. In this case the Master of the Rolls (Lord Romilly) made a decree declaring that the mortgagees were entitled to be paid their interest and principal in like manner as the other mortgagees under the Act, and to have the benefit of the clause and provisions of the Act for that purpose. The decree directed an account to be taken of what was due for interest on the mort-

gage, and directed the commissioners to pay the same out of any moneys which should, on taking the accounts thereinafter directed, appear to be in their hands, or for which they were bound to account, so far as the same would extend, *and the residue thereof, with the interest to accrue due from time to time thereafter, out of the first moneys coming to their hands properly applicable to the payment of interest on the mortgages.* An account was also directed to be taken of the rates made and levied and paid to the commissioners since the time when they ceased to pay the interest on the mortgage, and of their application thereof; and in taking such account, directions were given to ascertain what, if anything, was properly applicable to the payment of the interest or of the principal of the mortgage.

Having regard to the above cases, it seems doubtful whether it would in an ordinary case be the wiser course to apply to the Chancery Division for the appointment of a receiver, where the rates leviable by a local authority are the only security charged.

There are, however, some considerations which it may be as well to mention here, which might possibly induce that Division to appoint a receiver of rates, notwithstanding the decision of Lord Lyndhurst in *Drewry* v. *Barnes*, and of Vice-Chancellor Bacon in *Preston* v. *Corporation of Great Yarmouth.*

In the first place, it is now provided by sub-section (8) of section 25 of the Supreme Court of Judicature Act, 1873 (33 & 34 Vict., c. 66), that a *mandamus* may be granted by an interlocutory order of the Court *in all cases in which it shall appear to the Court to be just or convenient that such order should be made.*

The Judicature Act, section 25 (8).

As regards the construction to be placed on this section, see *In re Parish Skating Rink Company* (L. R. 6 Ch. D. 731), and *Glossop* v. *Heston and Isleworth Local Board* (L. R. 12 Ch. D. 122). In the former of these cases, where Vice-Chancellor Hall had made an order to wind up the company on the petition of a shareholder, but the order had been discharged by the Court of Appeal, the Vice-Chancellor declared that he had undoubtedly jurisdiction to direct the issue of a writ of *mandamus* in every cause or matter pending before him, but owing to the dismissal of the petition by the Court of Appeal, there was no longer any matter or cause pending before him in which he could make the order. But in the case of *Glossop* v. *Heston and Isleworth Local Board*, Lord Justice Brett, speaking of the Local Board, said: "Supposing they had

In re Parish Skating Rink Company.

Glossop v. *Heston and Isleworth Local Board.*

neglected or refused to do their duty, then I think they would have been liable to a *mandamus*, but not to a *mandamus* to be granted by the Chancery Division. It would have been a prerogative *mandamus*, as it is called, to them as a public body to enter upon and do their duty. That, as it seems to me, under the Judicature Act, as it was before, is a remedy that can be granted only in the Court of Queen's Bench. I think the *mandamus* spoken of in the 8th sub-section of the 25th section of the Judicature Act is not the prerogative *mandamus*,[1] but only a *mandamus* which may be granted to direct the performance of some act, of something to be done, which is the result of an action, where an action will lie.[2] Therefore, supposing the defendants here had refused to enter upon or perform their duty, they would have been liable to a *mandamus*, but only to a *mandamus* granted by the Court of Queen's Bench and not here." Lord Justice James: "We are dealing with a matter of Chancery jurisdiction, and the Court of Chancery never granted a *mandamus* to a public body to compel it to do things for the benefit of private persons, who might be benefited thereby." "A *mandamus* might, on proper evidence of refusal, of which I see none here, be applied for in the Queen's Bench Division, in the exercise of its great prerogative jurisdiction to compel all bodies having an authority under an Act of Parliament, to perform the duties the Legislature had imposed on them. That *mandamus* might be applied for by any individual, who could show a sufficient cause, and the Court might grant it, if it could see that something the public body ought to do was neglected to be done."

Receiver of rates not necessarily an insufficient remedy.

Moreover, it by no means follows, that the appointment of a receiver of the rates would be an insufficient remedy in the majority of instances, even if the Court had no power to issue a *mandamus* requiring a rate to be levied. Supposing a receiver of the rates to be appointed, in cases where the only revenue of the local authority is derived from rates, which would be the ordinary case. Until the receiver had obtained sufficient moneys to pay what was due on the local security, the local

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[1] See Tapping on *Mandamus*, Chapters I. and II.

[2] Hence it might be held that if an action were brought in the Chancery Division for the enforcement of a local security, and a receiver of the rates were appointed, a *mandamus* might subsequently be obtained, requiring the local authority to levy a sufficient rate, in the event of their neglecting to perform their duty in this respect.

authority would be absolutely without funds to carry on their daily business, or to pay their officers and servants, and they would therefore have every reason to levy a sufficient rate, without being required to do so by a *mandamus*; and in many cases, when the receiver was appointed, there would be considerable arrears of rates uncollected, and it would surely be unreasonable to refuse the lender a receiver to collect these arrears, merely on the ground that they might possibly be insufficient to pay the whole of the moneys due to him, and that the local authority might possibly refuse to levy more rates. Another argument for the appointment of a receiver which might possibly be urged, would be that the Legislature has on several occasions recognized the propriety of appointing a receiver of rates, as will be seen below (pp. 40 to 42).

Remedy by *mandamus*.

Assuming it to be doubtful whether the Chancery Division would appoint a receiver, or whether the appointment of a receiver would be an effectual remedy, and that the lender has no other effectual remedy, his proper course will apparently be to apply to the Queen's Bench Division for a *mandamus*, requiring the local authority to pay him the money due on his security. The general rule of law is that a *mandamus* will be granted where there is no other remedy, *Rex.* v. *Windham* (Cowp. 378); or where it is doubtful whether there is an effectual remedy, *Rex.* v. *Nottingham Waterworks Company* (1 N. & P. 480; 6 A. & E. 355; W. W. & D. 166); but not where it is clear that the applicant has a specific legal remedy, *Rex.* v. *Bishop of Chester* (1 T. R. 396). Two circumstances must concur to authorize the issuing of a *mandamus*—a specific legal right, and the absence of an effectual remedy. Before a *mandamus* can be obtained, there must, moreover, be a direct refusal to do that which it is the object of the *mandamus* to enforce, either in terms or by circumstances which distinctly show an intention in the party to withhold from doing the act required, *Rex.* v. *Brecknock and Abergavenny Canal Company* (4 N. & M. 871; 3 A. & E. 217; 1 H. & W. 279).

Webb v. *Herne Bay Improvement Commissioners.*

In the case of *Webb and others* v. *the Herne Bay Improvement Commissioners* (L. R. 5 Q. B. 642; 22 L. T., N.S. 745; 39 L. J., N.S. 221), where the rates to be levied under a local Act were assigned to the mortgagee until the money lent and the interest thereon should be paid, and there was no express covenant to repay, but it was provided by section 123 of the Act, that money received under the Act, should be applied (amongst

other things) in paying the interest on money borrowed under the Act on the credit of the rates, and in reducing, paying-off, and discharging the several sums of money that might from time to time be so borrowed, the commissioners having neglected to pay the interest due on the mortgage, a *mandamus* was obtained, commanding them to apply all money raised, or to be raised under the Act, in the manner prescribed by section 123 of the Act. This local Act, it should be observed, contained no power authorizing the appointment of a receiver of the rates. In this case Cockburn, C. J., is reported to have said:—"If owing to the form which this *mandamus* assumes, the commissioners desist from levying the rates, the consequence will be, that a further *mandamus* will be required, commanding the commissioners to levy a rate for the express purpose of paying the interest." In the same case, Blackburn, J., observed:—"The plaintiffs are personally interested in having the money applied as provided by the Act; and if the commissioners have departed from their duty of properly applying the money and causing the interest to be paid, the plaintiffs are entitled to a *mandamus*. It is said the commissioners will not raise any money in future, and if the plaintiffs had anticipated that, they might have come to the Court for a *mandamus*, not only to command the commissioners to apply the money, but also to levy rates to raise it; but I see no objection to granting a *mandamus* in the limited form in which it is asked for, though probably the plaintiffs may be entitled to demand another in a different form at some future time." Some remarks to the same effect were made in this case by Lush, J.

For other cases in which a *mandamus* has been obtained by a lender for the purpose of requiring a local authority to pay the principal and interest due upon local securities, see *Reg.* v. *The Churchwardens of St. Michael's, Southampton* (6 El. & Bl. 807); *Rex.* v. *Carpenter* (6 A. & E. 795); *Reg.* v. *The Overseers of Hurstbourne Tarrant* (Ell. Bl. & Ell. 246); and *Rex.* v. *The Churchwardens of St. Michael's, Pembroke* (5 A. & E. 603; 1 N. & P. 69). Some account of these cases has already been given on pages 21 to 23.

In a more recent case than any of the above, viz., *Reg.* v. *The Guardians of the Epping Union*, a *mandamus* was obtained in the Queen's Bench Division on the 14th of May, 1877, commanding the guardians, as the rural sanitary authority, to issue precepts with a view of raising certain instalments of principal

and interest due to the Public Works Loan Commissioners, in respect of certain loans advanced by them under the Sanitary Loans Act, 1869[1] (32 & 33 Vict., c. 100).

Cases where *mandamus* to levy rates has been granted.

For cases in which a *mandamus* has been obtained to compel local authorities to levy rates for various purposes, see *Reg.* v. *The Rotherham Board of Health* (27 L. J., N.S. Q. B. 156); *Ward* v. *Lowndes* (29 L. J., N.S. Q. B. 40); and *Worthington* v. *Hatton* (35 L. J., N.S. Q. B. 61). It is no answer to an application for a writ of *mandamus* to levy a rate that the local authority may possibly have funds to pay the amount required, and that a fresh rate may not be necessary. *Ringland* v. *Lowndes* (33 L. J., N.S. C. P. 25).

Where *mandamus* granted under sec. 54 of Elementary Education Act, 1870.

In the event of its being contended that a *mandamus* is not the proper remedy for enforcing a local security, reference may be made to the cases of *The School Board of Cyfoeth-y-Brenin* v. *The Overseers of Cyfoeth-y-Brenin*, *The School Board of Sunderland* v. *The Mayor, &c., of Sunderland*, *The School Board of Swansea* v. *The Mayor, &c., of Swansea*, *The School Board for London* v. *The Greenwich District Board of Works*; *The School Board of Rochdale* v. *The Mayor of Rochdale*, and *The School Board of Birmingham* v. *The Mayor, &c., of Birmingham*, cited in Owen's "Elementary Education Acts," in note (2) to section 54 of the Elementary Education Act, 1870. In each of these cases a *mandamus* was obtained requiring the rating authority to pay to the treasurer of the School Board the amount of their precept, and this, notwithstanding the fact that by section 56 of the Act, the School Board are empowered, in the case of the default of the rating authority, to appoint an officer to levy a rate to meet these expenses. It is, however, to be observed that the remedy thus given by section 56, is

[1] Section 6 of this Act provided that any principal money or interest for the time being due in respect of any loan under the Act made for payment of the expenses incurred or to be incurred, in the performance of the duty of a defaulting local authority, should be taken to be a debt due from such authority, and, *in addition to any other remedies*, might be enforced in the manner in which a debt due from a defaulting authority might be enforced in pursuance of the 8th section of the Sanitary Act, 1868 (31 & 32 Vict., c. 115). The last-mentioned section enabled the Local Government Board, by precept, to empower a person to levy by and out of the local rate, such sum as might, in the opinion of the Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the non-payment of such debt. Each of the above sections was repealed by section 343 of the Public Health Act, 1875, which, however, provided that the repeal should not affect any right or liability acquired, accrued, or incurred, or any security given under any enactment thereby repealed.

expressly stated in the Act to be without prejudice to any other remedy.

Statutory remedies.

The above are the remedies of which the holder of a local security may avail himself, for recovering the moneys due on his security, in cases where no special remedy is given to him by the Statute under which the security is created. It should, however, be borne in mind, that the majority of the Statutes under which local loans are raised, have provided special remedies for the recovery by the lenders of any principal or interest for the time being due in respect of any of their loans; and in cases where these remedies are sufficient, the better course, as a general rule, for the lender to take, will no doubt be to avail himself of them, at any rate, unless it is quite clear that they are given to him without prejudice to his other remedies.

Appointment of a receiver.

The usual remedy given by Statute to the holder of a local security, is the appointment of a receiver by a Court of Summary Jurisdiction or a County Court, to collect out of the local[1] rate sufficient money to pay the amount in arrear, the expenses of the collection, and the costs incurred in applying and obtaining the appointment of the receiver. This remedy is given by the Commissioners Clauses Act, 1847 (and consequently by every Act with which that Act[2] is incorporated), by the Local Loans Act, 1875, and the Public Health Act, 1875.[3] It will depend upon the Act under which the money has been borrowed, to what Court the application for a receiver should be made. If the money has been borrowed on mortgage under the Public Health Act, or under any Act with which the Commissioners Clauses Act is incorporated, the application may be made to a

[1] It is only in a few exceptional cases such as are referred to below (pages 41 and 42), that the receiver has the power of making rates.

[2] The clauses of the Commissioners Clauses Act, 1847, relating to mortgages, are incorporated with a great number of local Acts, and with the following general Acts: The Burial Acts, 1857 and 1862, the Harbours and Passing Tolls, &c., Act, 1861, the Land Drainage Act, 1861, the Highway Act, 1864, the Tramways Act, 1870, the Elementary Education Act, 1873, the Prisons Authorities Act, 1874, the Explosives Act, 1875, the Artizans' and Labourers' Dwellings Improvement Act, 1875, as regards borrowing by the Commissioners of Sewers of the City of London, and the South Wales Highway Act Amendment Act, 1878.

[3] It should be noted that section 341 of the Public Health Act provides that all powers given by that Act shall be deemed to be in addition to, and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and that such powers may be exercised in the same manner as if that Act had not passed.

Court of Summary Jurisdiction (see section 239 of the former, and section 87 of the latter Act). If it has been borrowed on securities issued under the Local Loans Act, the application may be made to the County Court (see section 12 of that Act). Before a receiver can be appointed under the Public Health Act, the money must have been in arrear for six months, and demand in writing must have been made for it to the local authority: nor will the application be entertained, unless the sum or sums due and owing to the applicant amount to £1,000, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due moneys collectively amounting to that sum (section 39). Under the Local Loans Act, the receiver may be appointed in any case where the local authority makes default for a period of twenty-one days in paying an amount of not less than £500 (whether in one sum or separate sums) for the time being due on or in respect of any security issued under that Act (section 12). Under local Acts the amount of principal in arrear to authorize the appointment of a receiver is seldom, if ever, less than £1,000, and is frequently a considerably larger sum.

In what cases receiver appointed.

When the receiver is appointed by the County Court under section 12 of the Local Loans Act, the Court may remove him and appoint another in his stead, and so from time to time, and may make such orders and give such directions as to his powers and duties, and otherwise as to the disposal of the moneys received by him, as may be thought fit for carrying that section into effect. Neither the Public Health Act nor the Commissioners Clauses Act give the justices any control over the receiver when once he has been appointed. And the directions given to the receiver by the former of these Acts are not as clear as they might be, in the event of some of the mortgages of the local authority having priority over others.

Power of County Court over receiver.

The Public Health Act has, however, one advantage over the other Acts above referred to, and that is that it enables the receiver himself to make the rate, if a local board [1] lapses, which is a contingency which has before now occurred. A power to enable a receiver to make a rate has also been given in several of the Acts which have authorized the creation by local authorities of stock charged upon all the rates leviable by and the revenues belonging to the borrowing authority. In

Power for receiver to make rate when local board lapses.

Or when local stock is created.

[1] See Rule 1 of Part II. of Schedule II. to the Act.

these cases the receiver may be appointed on application to the Chancery Division of the High Court of Justice in a summary way, by motion or petition, without the issue of a writ, and the receiver, when appointed, will have the same power of collecting and receiving and recovering and applying all moneys liable to be applied in payment of the dividends on the stock, or in redeeming the stock, and of assessing and raising and recovering all rates for the purpose of obtaining such moneys, as the local authority or any officer thereof may have. See, *e.g.*, the Liverpool Corporation Loans Act, 1880 (43 & 44 Vict., c. ccvii., s. 37); the Nottingham Corporation Loans Act, 1880 (43 & 44 Vict., c. ccviii., s. 37; and section 105 of the Derby Corporation Act, 1882 (45 & 46 Vict., c. ccxlv.), which will be found in Appendix (4).

Statutory remedy by *mandamus*.

In addition to the remedy which it gives for the appointment of a receiver, the Local Loans Act provides (section 11) that if default is made in payment of any sum due in respect of any security issued under that Act, such sum shall be deemed to be a specialty debt due to the person entitled thereto from the local authority of such a nature that a *mandamus* will be granted to enforce the payment thereof, and an action may be brought accordingly, in which a *mandamus* may be claimed.

Special remedies possessed by Public Works Loan Commissioners.

Where money is advanced to local authorities by the Public Works Loan Commissioners, the commissioners are given some very special powers for the recovery of any loan so advanced. The provisions containing these powers are contained in the Public Works Loans Act, 1875, and will be found in Chapter III. of the present work under the head "Remedies for the Recovery of Loans advanced by the Commissioners.

Provision to be made by Local Authorities for Repayment.

Methods for repayment of local loans.

Having now described the various proceedings which lenders may take for the purpose of enforcing payment of the moneys due to them on local securities in the somewhat improbable contingency of such payment being refused or withheld, it becomes necessary to consider a question of far more practical importance, which arises in connexion with nearly every local security that is issued, viz., what provision must be made for its liquidation.

The practice, which has usually been adopted by Parliament in authorizing the borrowing of money by local authorities, has been to require the local authority either to set aside annually

a fractional part of the money borrowed, and to apply the same from time to time towards the repayment of the loan, or to repay the loan within a prescribed period.[1] In the latter case the Act of Parliament, which authorizes the raising of the loan, prescribes the method or methods which may be adopted for securing its discharge within such period. The following is a list of the methods thus prescribed :—

(1.) Equal annual repayments of principal.

(2.) Equal annual payments of principal and interest combined.

(3.) Equal half-yearly payments of principal and interest combined.

(4.) The establishment of a sinking fund.

(5.) The appropriation of a fixed annual sum in accordance with section 14 of the Local Loans Act, 1875.

(6.) The establishment of a loans fund.

Option usually given to local authority.

In the majority of cases, the borrowing authority has the option of repaying its loans by two or more of the above methods. Thus, it is left to the option of Boards of Guardians[2] whether they will repay their loans by equal annual or half-yearly repayments of principal or of principal and interest combined; and sanitary authorities[3] may repay their loans by either of these methods or by the establishment of a sinking fund. A similar choice is usually, but not invariably, given to local authorities borrowing under local Acts. And if any local authority, which has the option of repaying its loans by means of a sinking fund, elects to borrow money by the issue of securities under the Local Loans Act, 1875, it may secure the discharge of such money by either of the methods specified in section 13 of that Act, *i.e.*, by either of the first five of the above-mentioned methods, with the exception of the third. Each method of repayment, with the exception of the fifth, has its advantages, as will be seen from the following statements with respect to them.

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[1] As to the importance from the point of view of the lender of the loan being repaid within the prescribed period, see *Reg.* v. *the Churchwardens of Wigan and others* as reported in Appendix (6) of this work, and the cases of which some account is given at pages 21 to 23.

[2] See under borrowing powers of Boards of Guardians in Chapter IV.

[3] See under borrowing powers of Sanitary Authorities in Chapter IV.

Equal Annual or Half-yearly Repayments of Principal.

Advantage of equal repayments of principal.

The first of the above methods of repayment, viz., repayment by equal annual or half-yearly instalments of principal, extending over the whole of the period allowed for the discharge of the loan, has the merit of simplicity, and requires no elaborate calculations or tables, in order to show the amount of principal which must be repaid in each year by the local authority, who adopt it. At the same time it has this disadvantage, that in consequence of the amount of the principal, annually or half-yearly repaid under it, remaining the same, and the amount of the interest payable on account of the loan decreasing annually or half-yearly, as the principal is paid off, it does not spread the burden of the loan evenly over the period allowed for repayment, but imposes by far the heavier burden on the persons who contribute to the rates during the first few years after the money has been borrowed. For example: when a loan of £1,000 carrying 4 per cent. interest, is repayable in 50 years by this method, the ratepayers in the first year are called upon to pay £40 for interest, and £20 for principal, making a total of £60; whereas the ratepayers in the fiftieth year, will only have to pay 16*s.* for interest, and £20 for principal, making a total of £20 16*s.*[1] This method of repayment therefore, while it is the fairest that can be devised, when the money has been borrowed for works, which are likely to be more useful to the present generation than to the next, or to deteriorate from year to year, is not a very appropriate one to adopt for the repayment of a loan which has been expended upon works which are likely to become more and more useful as time goes on, *e.g.*, works constructed on a scale larger than would have been necessary to meet the requirements of the ratepayers at the date of construction, but not larger than will be required by succeeding generations. If the works are of this character, or indeed if they are likely to be equally useful to the ratepayers during every year of the period allowed for the repayment of the moneys expended on them, it is only equitable

Disadvantage.

In what cases appropriate.

In what inappropriate.

[1] If the same loan be made repayable by equal annual payments of principal and interest combined, the ratepayers will contribute £47 2*s.* for principal and interest in each of the fifty years. See the tables below. During the first seventeen years they will therefore pay less, and during the remaining thirty-three years more by this method than they would if the loan were repayable by equal annual instalments of principal extending over the full period of fifty years.

that the burden of paying the principal and interest of such moneys should be evenly spread over the whole of such period. In other words, the loan should in such a case be discharged, not by equal annual or half-yearly repayments of principal, but by equal annual or half-yearly payments of principal and interest combined.

Equal Annual or Half-yearly Payments of Principal and Interest combined.

Use of tables necessary.

Each of these methods of repayment requires the use of tables, for the purpose of ascertaining the amounts of the annual or half-yearly payments, which will have to be made by the borrower. The following tables show the equal annual and half-yearly payments of principal and interest combined, which will repay loans of £1 and £100, in any period from one to sixty years, at any of the following rates of interest, viz., 3½, 3¾, 4, 4¼, 4½, 4¾, and 5 per cent. In applying them, the better method will be to multiply the sum to be repaid by the decimal fraction of £1, which will repay £1 with interest at the given rate in the given period.

How to use them.

Example.—To find the annual payment of principal and interest combined to repay £5,722, with interest at 4½ per cent. per annum, in twenty-three years. On reference to the tables, it will be found that an annual payment of ·0706825 of £1 will repay £1 with interest at £4½ per cent. in 23 years. Multiplying this decimal fraction by 5722, the result will be £404 8*s.* 11*d.*, which will be the annual payment required.

·0706825 × 5722 = £404 8*s.* 11*d.*

or ·0706825
5722

1413650
1413650
4947775
3534125

404·445265
20

8·9053
12

10·8636

TABLES showing the equal annual and half-yearly payments of principal and interest combined, which will repay loans of £1 and £100 in any period from one to sixty years, at any of the following rates of interest: viz., 3½, 3¾, 4, 4¼, 4½, 4¾, and 5 per cent.

Loans of £1 and £100 at 3½ per cent. Interest.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of Years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
1	1·0350000	103	10	0	·5131629	51	6	4	1
2	·5264005	52	12	9½	·2610324	26	2	0¾	2
3	·3569342	35	13	10½	·1770225	17	14	0½	3
4	·2722511	27	4	6	·1350429	13	10	1	4
5	·2214814	22	2	11½	·1098753	10	19	9	5
6	·1876682	18	15	4	·0931138	9	6	2¾	6
7	·1635445	16	7	1	·0811556	8	2	3¾	7
8	·1454766	14	10	11½	·0721995	7	4	4¾	8
9	·1314460	13	2	10¾	·0652449	6	10	6	9
10	·1202414	12	0	5¾	·0596912	5	19	4½	10
11	·1110920	11	2	2¼	·0551564	5	10	3¾	11
12	·1034839	10	6	11½	·0513856	5	2	9¼	12
13	·0970616	9	14	1¾	·0482027	4	16	4¾	13
14	·0915707	9	3	1¼	·0454815	4	10	11½	14
15	·0868251	8	13	7¾	·0431297	4	6	3	15
16	·0826848	8	5	4½	·0410781	4	2	1¾	16
17	·0790431	7	18	1	·0392736	3	18	6½	17
18	·0758168	7	11	7½	·0376750	3	15	4¼	18
19	·0729403	7	5	10½	·0362499	3	12	6	19
20	·0703611	7	0	8¾	·0349721	3	9	11¼	20
21	·0680366	6	16	1	·0338205	3	7	7¾	21
22	·0659321	6	11	10¼	·0327781	3	5	6¾	22
23	·0640188	6	8	0½	·0318304	3	3	8	23
24	·0622728	6	4	6½	·0309657	3	1	11¼	24
25	·0606740	6	1	4¼	·0301739	3	0	4¼	25
26	·0592054	5	18	5	·0294466	2	18	10¾	26
27	·0578524	5	15	8½	·0287767	2	17	6¾	27
28	·0566026	5	13	2½	·0281579	2	16	3¾	28
29	·0554454	5	10	10¼	·0275850	2	15	2	29
30	·0543713	5	8	9	·0270533	2	14	1¼	30
31	·0533724	5	6	9	·0265589	2	13	1½	31
32	·0524415	5	4	10½	·0260982	2	12	2¼	32
33	·0515724	5	3	1¾	·0256681	2	11	4	33
34	·0507597	5	1	6¼	·0252659	2	10	6½	34
35	·0499983	5	0	0	·0248893	2	9	9¼	35
36	·0492842	4	18	6¾	·0245360	2	9	0¾	36
37	·0486132	4	17	2¾	·0242041	2	8	5	37

Loans of £1 and £100 at 3½ per cent. Interest—continued.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Half-yearly Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Number of Years in which Loan to be repaid.
38	·0479821	4	15	11½	·0238920	2	7	9½	38
39	·0473878	4	14	9¼	·0235980	2	7	2¼	39
40	·0468273	4	13	7¾	·0233209	2	6	7¾	40
41	·0462982	4	12	7¼	0230593	2	6	1½	41
42	·0457983	4	11	7¼	·0228122	2	5	7½	42
43	·0453254	4	10	7¾	·0225785	2	5	2	43
44	·0448777	4	9	9	·0223572	2	4	8½	44
45	·0444534	4	8	11	·0221476	2	4	3½	45
46	·0440511	4	8	1¼	·0219488	2	3	10¾	46
47	·0436692	4	7	4	·0217601	2	3	6¼	47
48	·0433065	4	6	7¼	·0215810	2	3	2	48
49	·0429617	4	5	11	·0214107	2	2	9¾	49
50	·0426337	4	5	3¼	·0212488	2	2	6	50
51	·0423216	4	4	7¾	·0210947	2	2	2¼	51
52	·0420243	4	4	0½	·0209479	2	1	10¾	52
53	·0417410	4	3	5¾	·0208081	2	1	7½	53
54	·0414709	4	2	11¼	·0206748	2	1	4¼	54
55	·0412132	4	2	5	·0205477	2	1	1¼	55
56	·0409673	4	1	11¼	·0204264	2	0	10¼	56
57	·0407325	4	1	5½	·0203106	2	0	7½	57
58	·0405081	4	1	0¼	·0201999	2	0	4¾	58
59	·0402937	4	0	7	·0200942	2	0	2¼	59
60	·0400886	4	0	2¼	·0199931	1	19	11¾	60

Loans of £1 and £100 at 3¾ per cent. Interest.

1	1·0375000	103	15	0	·5141060	51	8	2½	1
2	·5282976	52	16	7¼	·2618273	26	3	7¾	2
3	·3586400	35	17	3¼	·1777734	17	15	6½	3
4	·2738687	27	7	8¾	·1357754	13	11	6½	4
5	·2230519	22	6	1¼	·1105997	11	1	2½	5
6	·1892122	18	18	5	·0938352	9	7	8	6
7	·1650737	16	10	1¾	·0818770	8	3	9	7
8	·1469984	14	14	0	·0729228	7	5	10¼	8
9	·1329652	13	5	11¼	·0659712	6	11	11¼	9
10	·1217614	12	3	6¼	·0604215	6	0	10	10
11	·1126152	11	5	2¾	·0558911	5	11	9½	11
12	·1050123	10	10	0¼	·0521254	5	4	3	12
13	·0985964	9	17	2¼	·0489477	4	17	10¾	13
14	·0931132	9	6	2¾	·0462321	4	12	5½	14
15	·0883759	8	16	9	·0438861	4	7	9¼	15
16	·0842448	8	8	6	·0418404	4	3	8¼	16
17	0806128	8	1	2¾	·0400420	4	0	1	17

Loans of £1 and £100 at 3¾ per cent. Interest—continued.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of Years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
18	·0773966	7	14	9½	·0384496	3	16	10¾	18
19	·0745306	7	9	0¾	·0370306	3	14	0⅜	19
20	·0719621	7	3	11	·0357591	3	11	6¼	20
21	·0696486	6	19	3½	·0346139	3	9	2⅜	21
22	·0675553	6	15	1¼	·0335778	3	7	1¼	22
23	·0656534	6	11	3¾	·0326365	3	5	3¼	23
24	·0639189	6	7	10	·0317781	3	3	6¾	24
25	·0623317	6	4	8	·0309927	3	1	11¼	25
26	·0608747	6	1	9	·0302719	3	0	6½	26
27	·0595334	5	19	0¾	·0296083	2	19	2½	27
28	·0582954	5	16	7	·0289959	2	18	0	28
29	·0571499	5	14	3½	·0284293	2	16	10¼	29
30	·0560876	5	12	2	·0279039	2	15	9¾	30
31	·0551005	5	10	2½	·0274158	2	14	10	31
32	·0541813	5	8	4¼	·0269613	2	13	11	32
33	·0533239	5	6	7¾	·0265374	2	13	1	33
34	·0525229	5	5	0½	·0261415	2	12	3½	34
35	·0517732	5	3	6½	·0257709	2	11	6½	35
36	·0510706	5	2	1¾	·0254237	2	10	10¼	36
37	·0504112	5	0	9¾	·0250979	2	10	2¼	37
38	·0497916	4	19	7	·0247918	2	9	7	38
39	·0492086	4	18	5	·0245038	2	9	0	39
40	·0486595	4	17	3¾	·0242326	2	8	5½	40
41	·0481416	4	16	3½	·0239769	2	7	11½	41
42	·0476529	4	15	3¼	·0237356	2	7	5¼	42
43	·0471911	4	14	4½	·0235076	2	7	0¼	43
44	·0467543	4	13	6	·0232921	2	6	7	44
45	·0463410	4	12	8¼	·0230881	2	6	2	45
46	·0459494	4	11	10¾	·0228949	2	5	9½	46
47	·0455782	4	11	2	·0227118	2	5	5	47
48	·0452261	4	10	5½	·0225381	2	5	1	48
49	·0448918	4	9	9½	·0223733	2	4	9	49
50	·0445742	4	9	1¼	·0222167	2	4	5¼	50
51	·0442723	4	8	6½	·0220679	2	4	1¾	51
52	·0439852	4	7	11¾	·0219264	2	3	10¼	52
53	·0437120	4	7	5	·0217917	2	3	7	53
54	·0434518	4	6	10¾	·0216636	2	3	4	54
55	·0432040	4	6	5	·0215415	2	3	1	55
56	·0429678	4	5	11¼	·0214251	2	2	10¼	56
57	·0427425	4	5	5¾	·0213142	2	2	7½	57
58	·0425276	4	5	0¾	·0212084	2	2	5	58
59	·0423225	4	4	7¾	·0211075	2	2	2½	59
60	·0421267	4	4	3	·0210112	2	2	0¼	60

Loans of £1 and £100 at 4 per cent. Interest.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of Years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
1	1·0400000	104	0	0	·5150495	51	10	1¼	1
2	·5301961	53	0	4¾	·2626237	26	5	3	2
3	·3603485	36	0	8¼	·1785258	17	17	0½	3
4	·2754900	27	10	11¾	·1365098	13	13	0¼	4
5	·2246271	22	9	3	·1113265	11	2	7¾	5
6	·1907619	19	1	6¼	·0945596	9	9	1½	6
7	·1666096	16	13	2¾	·0826020	8	5	2¼	7
8	·1485278	14	17	0¾	·0736501	7	7	3½	8
9	·1344930	13	8	11¾	·0667021	6	13	4¾	9
10	·1232909	12	6	7	·0611567	6	2	3¾	10
11	·1141490	11	8	3½	·0566314	5	13	3¼	11
12	·1065522	10	13	1¼	·0528711	5	5	9	12
13	·1001437	10	0	3½	·0496992	4	19	4¾	13
14	·0946690	9	9	4	·0469896	4	13	11¼	14
15	·0899411	8	19	10½	·0446499	4	9	3½	15
16	·0858200	8	11	7¾	·0426106	4	5	2¾	16
17	·0821985	8	4	4¾	·0408186	4	1	7¾	17
18	·0789933	7	17	11¾	·0392328	3	18	5½	18
19	·0761386	7	12	3¼	·0378205	3	15	7¾	19
20	·0735818	7	7	2	·0365557	3	13	1¼	20
21	·0712801	7	2	6¾	·0354173	3	10	10	21
22	·0691988	6	18	4¾	·0343879	3	8	9¼	22
23	·0673090	6	14	7½	·0334534	3	6	11	23
24	·0655868	6	11	2	·0326018	3	5	2½	24
25	·0640120	6	8	0¼	·0318232	3	3	7¾	25
26	·0625674	6	5	1½	·0311091	3	2	2½	26
27	·0612385	6	2	5¾	·0304522	3	0	10¾	27
28	·0600130	6	0	0¼	·0298465	2	19	8¼	28
29	·0588799	5	17	9	·0292866	2	18	7	29
30	·0578301	5	15	8	·0287679	2	17	6¼	30
31	·0568554	5	13	8½	·0282864	2	16	6¾	31
32	·0559486	5	11	10¾	·0278385	2	15	8¼	32
33	·0551036	5	10	2½	·0274212	2	14	10	33
34	·0543148	5	8	7½	·0270317	2	14	0¾	34
35	·0535773	5	7	1¾	·0266676	2	13	4	35
36	·0528869	5	5	9¼	·0263268	2	12	7¾	36
37	·0522396	5	4	5¾	·0260073	2	12	0¼	37
38	·0516319	5	3	3¼	·0257075	2	11	5	38
39	·0510608	5	2	1½	·0254257	2	10	10¼	39
40	·0505235	5	1	0½	·0251607	2	10	3¾	40
41	·0500174	5	0	0½	·0249111	2	9	9¾	41
42	·0495402	4	19	1	·0246758	2	9	4¼	42
43	·0490899	4	18	2¼	·0244538	2	8	11	43

Loans of £1 and £100 at 4 per cent. Interest—continued.

Number of years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
44	·0486645	4	17	4	·0242441	2	8	5¾	44
45	·0482625	4	16	6¼	·0240460	2	8	1	45
46	·0478820	4	15	9¼	·0238586	2	7	8½	46
47	·0475219	4	15	0½	·0236812	2	7	4¾	47
48	·0471806	4	14	4¼	·0235131	2	7	0¼	48
49	·0468571	4	13	8½	·0233538	2	6	8¾	49
50	·0465502	4	13	1¾	·0232027	2	6	4¾	50
51	·0462588	4	12	6¾	·0230593	2	6	1½	51
52	·0459821	4	11	11½	·0229232	2	5	10¼	52
53	·0457191	4	11	5¼	·0227938	2	5	7	53
54	·0454691	4	10	11¼	·0226708	2	5	4	54
55	·0452312	4	10	5½	·0225539	2	5	1¼	55
56	·0450049	4	10	0	·0224426	2	4	10½	56
57	·0447893	4	9	7	·0223367	2	4	8	57
58	·0445841	4	9	2	·0222358	2	4	5¾	58
59	·0443884	4	8	9¼	·0221397	2	4	3¼	59
60	·0442018	4	8	4¾	·0220481	2	4	1¼	60

Loans of £1 and £100 at 4¼ per cent. Interest.

1	1·0425000	104	5	0	·5159933	51	11	11¾	1
2	·5320961	53	4	2¼	·2634208	26	6	10	2
3	·3620597	36	4	1½	·1792796	17	18	6¾	3
4	·2771150	27	14	2¾	·1372462	13	14	6	4
5	·2262070	22	12	5	·1120558	11	4	1¼	5
6	·1923173	19	4	7½	·0952870	9	10	7	6
7	·1681522	16	16	3¾	·0833304	8	6	8	7
8	·1500649	15	0	1¾	·0743814	7	8	9¼	8
9	·1360294	13	12	0¾	·0674374	6	14	10½	9
10	·1248301	12	9	8	·0618969	6	3	9½	10
11	·1156934	11	11	4¾	·0573771	5	14	9	11
12	·1081035	10	16	2½	·0536227	5	7	3	12
13	·1017034	10	3	5	·0504571	5	0	11	13
14	·0962381	9	12	5¾	·0477540	4	15	6	14
15	·0915204	9	3	0¾	·0454210	4	10	10	15
16	·0874104	8	14	9¾	·0433885	4	6	9¼	16
17	·0838002	8	7	7¼	·0416035	4	3	2½	17
18	·0806068	8	1	2½	·0400247	4	0	0½	18
19	·0777643	7	15	6¼	·0386195	3	17	2¾	19
20	·0752198	7	10	5¼	·0373618	3	14	8¾	20
21	·0729308	7	5	10½	·0362305	3	12	5½	21
22	·0708623	7	1	8¾	·0352084	3	10	5	22
23	·0689855	6	17	11¾	·0342810	3	8	6¾	23

Loans of £1 and £100 at 4¼ per cent. Interest—continued.

Number of years in which Loan to be repaid.	Annual Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Half-yearly Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Number of years in which Loan to be repaid.
24	·0672763	6	14	6¾	·0334366	3	6	10½	24
25	·0657145	6	11	5¼	·0326651	3	5	4	25
26	·0642831	6	8	6¾	·0319581	3	3	11	26
27	·0629674	6	5	11¼	·0313084	3	2	7½	27
28	·0617549	6	3	6	·0307097	3	1	5	28
29	·0606350	6	1	3¼	·0301569	3	0	3¾	29
30	·0595982	5	19	2¼	·0296451	2	19	3½	30
31	·0586365	5	17	3¼	·0291705	2	18	4	31
32	·0577428	5	15	5¼	·0287295	2	17	5½	32
33	·0569106	5	13	9¾	·0283190	2	16	7¾	33
34	·0561347	5	12	3¼	·0279363	2	15	10½	34
35	·0554100	5	10	9¾	·0275789	2	15	2	35
36	·0547322	5	9	5½	·0272448	2	14	6	36
37	·0540974	5	8	2¼	·0269319	2	13	10¼	37
38	·0535023	5	7	0	·0266385	2	13	3¼	38
39	·0529435	5	5	10¾	·0263632	2	12	8¾	39
40	·0524184	5	4	10	·0261045	2	12	2½	40
41	·0519244	5	3	10¼	·0258612	2	11	8¼	41
42	·0514592	5	2	11	·0256322	2	11	3¼	42
43	·0510207	5	2	0½	·0254163	2	10	10	43
44	·0506071	5	1	2½	·0252127	2	10	5	44
45	·0502166	5	0	5¼	·0250206	2	10	0½	45
46	·0498476	4	19	8¼	·0248391	2	9	8¼	46
47	·0494987	4	19	0	·0246675	2	9	4	47
48	·0491686	4	18	4	·0245052	2	9	0½	48
49	·0488561	4	17	8½	·0243516	2	8	8½	49
50	·0485600	4	17	1½	·0242061	2	8	5	50
51	·0482794	4	16	6¾	·0240682	2	8	1¾	51
52	·0480132	4	16	0¼	·0239374	2	7	10½	52
53	·0477606	4	15	6¼	·0238134	2	7	7½	53
54	·0475208	4	15	0½	·0236957	2	7	4¾	54
55	·0472931	4	14	7	·0235839	2	7	2	55
56	·0470766	4	14	1¾	·0234777	2	6	11½	56
57	·0468709	4	13	9	·0233768	2	6	9	57
58	·0466752	4	13	4¼	·0232808	2	6	6¾	58
59	·0464890	4	12	11¾	·0231896	2	6	4½	59
60	·0463118	4	12	7½	·0231027	2	6	2½	60

Loans of £1 and £100 at 4½ per cent. Interest.

1	1·0450000	104	10	0	·5169376	51	13	10½	1
2	·5339976	53	8	0	·2642189	26	8	5¼	2
3	·3637734	36	7	6½	·1800340	18	0	0¾	3

Loans of £1 and £100 at 4½ per cent. Interest—continued.

Number of years in which Loan to be repaid.	Annual Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Half-yearly Payment of Principal and Interest combined. £1.	£100. £	s.	d	Number of years in which Loan to be repaid.
4	·2787437	27	17	5¾	·1379846	13	15	11¾	4
5	·2277919	22	15	7	·1127877	11	5	7	5
6	·1938784	19	7	9	·0960174	9	12	0½	6
7	·1697015	16	19	4¾	·0840623	8	8	1½	7
8	·1516097	15	3	2¾	·0751166	7	10	2¾	8
9	·1375745	13	15	1¾	·0681772	6	16	4¼	9
10	·1263788	12	12	9	·0626420	6	5	3½	10
11	·1172482	11	14	6	·0581282	5	16	3	11
12	·1096662	10	19	4	·0543802	5	8	9	12
13	·1032754	10	6	6½	·0512213	5	2	5¼	13
14	·0978203	9	15	7¾	·0485252	4	17	0½	14
15	·0931138	9	6	2¾	·0461993	4	12	4¾	15
16	·0890154	8	18	0¼	·0441741	4	8	4¼	16
17	·0854176	8	10	10	·0423965	4	4	9½	17
18	·0822369	8	4	5¾	·0408252	4	1	7¾	18
19	·0794073	7	18	9¾	·0394275	3	18	10¼	19
20	·0768761	7	13	9	·0381774	3	16	4¼	20
21	·0746006	7	9	2½	·0370536	3	14	1¼	21
22	·0725456	7	5	1	·0360390	3	12	1	22
23	·0706825	7	1	4½	·0351192	3	10	2¾	23
24	.0689870	6	17	11¼	·0342823	3	8	6¼	24
25	·0674390	6	14	10½	·0335183	3	7	0½	25
26	·0660214	6	12	0½	·0328188	3	5	7¾	26
27	·0647195	6	9	5¼	·0321765	3	4	4¼	27
28	·0635208	6	7	0½	·0315853	3	3	2	28
29	·0624145	6	4	10	·0310397	3	2	1	29
30	·0613915	6	2	9½	·0305353	3	1	0¾	30
31	·0604434	6	0	10½	·0300679	3	0	1¼	31
32	·0595632	5	19	1½	·0296341	2	19	3¼	32
33	·0587445	5	17	5¼	·0292307	2	18	5½	33
34	·0579819	5	15	11½	·0288550	2	17	8½	34
35	·0572704	5	14	6½	·0285046	2	17	0	35
36	·0566058	5	13	2½	·0281773	2	16	4¼	36
37	·0559840	5	11	11½	·0278712	2	15	9	37
38	·0554017	5	10	9¾	·0275845	2	15	2	38
39	·0548557	5	9	8½	·0273159	2	14	7½	39
40	·0543431	5	8	8¼	·0270637	2	14	1½	40
41	·0538616	5	7	8¾	·0268269	2	13	7¼	41
42	·0534087	5	6	9¾	·0266042	2	13	2½	42
43	·0529823	5	5	11½	·0263946	2	12	9½	43
44	·0525807	5	5	2	·0261973	2	12	4¼	44
45	·0522020	5	4	4¾	·0260112	2	12	0¼	45
46	·0518445	5	3	8¼	·0258357	2	11	8	46

Loans of £1 and £100 at 4½ per cent. Interest—continued.

Number of years in which Loan to be repaid.	Annual Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Half-yearly Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Number of years in which Loan to be repaid.
47	·0515073	5	3	0¼	·0256701	2	11	4	47
48	·0511886	5	2	4½	·0255136	2	11	0¼	48
49	·0508872	5	1	9¼	·0253658	2	10	8¾	49
50	·0506021	5	1	2½	·0252259	2	10	5½	50
51	·0503323	5	0	8	·0250936	2	10	2½	51
52	·0500768	5	0	1¾	·0249683	2	9	11¼	52
53	·0498347	4	19	8	·0248497	2	9	8¾	53
54	·0496052	4	19	2½	·0247372	2	9	5¾	54
55	·0493876	4	18	9¼	·0246306	2	9	3¼	55
56	·0491811	4	18	4¼	·0245295	2	9	0¾	56
57	·0489851	4	17	11¼	·0244336	2	8	10½	57
58	·0487990	4	17	7¼	·0243425	2	8	8¼	58
59	·0486222	4	17	3	·0242561	2	8	6¼	59
60	·0484543	4	16	11	·0241740	2	8	4¼	60

Loans of £1 and £100 at 4¾ per cent. Interest.

1	1·0475000	104	15	0	·5178822	51	15	9¼	1
2	·5359005	53	11	9½	·2650179	26	10	0½	2
3	·3654897	36	10	11¼	·1807917	18	1	7	3
4	·2803759	28	0	9	·1387250	13	17	5½	4
5	·2293809	22	18	9¼	·1135220	11	7	0½	5
6	·1954451	19	10	10¾	·0967508	9	13	6	6
7	·1712574	17	2	6¼	·0847977	8	9	7¼	7
8	·1531620	15	6	4	·0758558	7	11	8½	8
9	·1391280	13	18	3	·0689214	6	17	10	9
10	·1279370	12	15	10½	·0633921	6	6	9½	10
11	·1188134	11	17	7½	·0588847	5	17	9¼	11
12	·1112402	11	2	5¾	·0551436	5	10	3¾	12
13	·1048595	10	9	8¼	·0519919	5	3	11¼	13
14	·0994157	9	18	10	·0493032	4	18	7¼	14
15	·0947211	9	9	5¼	·0469849	4	13	11¼	15
16	·0906353	9	1	3¼	·0449674	4	9	11¼	16
17	·0870506	8	14	1¼	·0431976	4	6	4¾	17
18	·0838834	8	7	9¼	·0416342	4	3	3¼	18
19	·0810677	8	2	1¾	·0402444	4	0	5¼	19
20	·0785505	7	17	1¼	·0390022	3	18	0	20
21	·0762891	7	12	7	·0378799	3	15	9	21
22	·0742485	7	8	6	·0368797	3	13	9	22
23	·0723997	7	4	9½	·0359678	3	11	11¼	23
24	·0707187	7	1	5¼	·0351388	3	10	3¼	24
25	·0691851	6	18	4½	·0343827	3	8	9¼	25
26	·0677819	6	15	6¼	·0336910	3	7	4½	26

Loans of £1 and £100 at 4¾ per cent. Interest—continued.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Half-yearly Payment of Principal and Interest combined. £1.	£100. £	s.	d.	Number of Years in which Loan to be repaid.
27	·0664944	6	12	11¾	·0330564	3	6	1¼	27
28	·0653101	6	10	7½	·0324729	3	4	11¼	28
29	·0642183	6	8	5¼	·0319350	3	3	10½	29
30	·0632095	6	6	5	0314381	3	2	10½	30
31	·622725	6	4	6½	·309782	3	1	11½	31
32	·614093	6	2	9¾	·305518	3	1	1¼	32
33	·606046	6	1	2½	·301558	3	0	3¾	33
34	·598557	5	19	8½	·297873	2	19	7	34
35	·591579	5	18	3¾	·294441	2	18	10¾	35
36	·585068	5	17	0¼	·291238	2	18	3	36
37	·578984	5	15	9½	·288247	2	17	7¾	37
38	·573293	5	14	8	·285450	2	17	1	38
39	·567964	5	13	7	·282832	2	16	6¾	39
40	·562967	5	12	7	·280377	2	16	1	40
41	·558279	5	11	7¾	·278075	2	15	7½	41
42	·553876	5	10	9¼	·275913	2	15	2¼	42
43	·549736	5	9	11¼	·273882	2	14	9¼	43
44	·545842	5	9	2	·271971	2	14	4¾	44
45	·542175	5	8	5¼	·270173	2	14	0½	45
46	·538720	5	7	9	·268479	2	13	8¼	46
47	·535463	5	7	1	·266883	2	13	4½	47
48	·532390	5	6	5¾	·265377	2	13	1	48
49	·529489	5	5	10¾	·263956	2	12	9½	49
50	·526749	5	5	4¼	·262614	2	12	6¼	50
51	·524160	5	4	10	·261347	2	12	3¼	51
52	·521711	5	4	4	·260149	2	12	0¼	52
53	·519395	5	3	10½	·259016	2	11	9¾	53
54	·517203	5	3	5¼	·257945	2	11	7	54
55	·515128	5	3	0¼	·256930	2	11	4¾	55
56	·513162	5	2	7½	·255970	2	11	2¼	56
57	511299	5	2	3	·255060	2	11	0¼	57
58	·509533	5	1	11	·254198	2	10	10	58
59	·507859	5	1	6¾	·253381	2	10	8	59
60	·506271	5	1	3	·252607	2	10	6¼	60

Loans of £1 and £100 at 5 per cent. Interest.

1	1 0500000	105	0	0	·5188271	51	17	7¾	1
2	·5378049	53	15	7¼	·2658179	26	11	7¾	2
3	·3672085	36	14	5	·1815500	18	3	1¼	3
4	·2820118	28	4	0¼	·1394673	13	18	11¼	4
5	·2309748	23	1	11½	·1142587	11	8	6¼	5
6	·1970175	19	14	0½	·0974871	9	14	11¾	6

Loans of £1 and £100 at 5 per cent. Interest—continued.

Number of years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
7	·1728198	17	5	7¾	·0855365	8	11	1	7
8	·1547218	15	9	5¼	·0765990	7	13	2½	8
9	·1406901	14	1	4½	·0696701	6	19	4	9
10	·1295050	12	19	0	·0641471	6	8	3½	10
11	·1203889	12	0	9½	·0596466	5	19	3½	11
12	·1128254	11	5	7¾	·0559128	5	11	10	12
13	·1064558	10	12	11	·0527687	5	5	6½	13
14	·1010240	10	2	0½	·0500879	5	0	2	14
15	·0963423	9	12	8¼	·0477776	4	15	6¾	15
16	·0922699	9	4	6½	·0457683	4	11	6½	16
17	·0886991	8	17	4¾	·0440067	4	8	0¼	17
18	·0855462	8	11	1	·0424516	4	4	10¾	18
19	·0827450	8	5	6	·0410701	4	2	1¾	19
20	·0802426	8	0	5¾	·0398362	3	19	8	20
21	·0779961	7	16	0	·0387287	3	17	5½	21
22	·0759705	7	11	11¼	·0377303	3	15	5½	22
23	·0741368	7	8	3¼	·0368267	3	13	7¾	23
24	·0724709	7	4	11¼	·0360060	3	12	0¼	24
25	·0709525	7	1	10¾	·0352580	3	10	6½	25
26	·0695643	6	19	1½	·0345744	3	9	1½	26
27	·0682919	6	16	7	·0339480	3	7	10¾	27
28	·0671225	6	14	3	·0333724	3	6	9	28
29	·0660455	6	12	1	·0328424	3	5	8¼	29
30	·0650514	6	10	1¼	·0323534	3	4	8½	30
31	·0641321	6	8	3¼	·0319012	3	3	9¾	31
32	·0632804	6	6	6¾	·0314825	3	2	11½	32
33	·0624900	6	4	11¼	·0310940	3	2	2¼	33
34	·0617554	6	3	6¼	·0307330	3	1	5½	34
35	·0610717	6	2	1¾	·0303971	3	0	9½	35
36	·0604345	6	0	10½	·0300841	3	0	2	36
37	·0598398	5	19	8¼	·0297922	2	19	7	37
38	·0592842	5	18	6¾	·0295195	2	19	0½	38
39	·0587646	5	17	6¼	·0292646	2	18	6¼	39
40	·0582782	5	16	6¼	·0290260	2	18	0½	40
41	·0578223	5	15	7¼	·0288025	2	17	7¼	41
42	·0573947	5	14	9½	·0285930	2	17	2¼	42
43	·0569933	5	13	11¾	·0283963	2	16	9½	43
44	·0566163	5	13	2¾	·0282116	2	16	5	44
45	·0562617	5	12	6¼	·0280381	2	16	1	45
46	·0559282	5	11	10¼	·0278748	2	15	9	46
47	·0556142	5	11	2¾	·0277212	2	15	5¼	47
48	·0553184	5	10	7¼	·0275766	2	15	1¾	48
49	·0550396	5	10	1	·0274403	2	14	10½	49

Loans of £1 and £100 at 5 per cent. Interest—continued.

Number of Years in which Loan to be repaid.	Annual Payment of Principal and Interest combined.				Half-yearly Payment of Principal and Interest combined.				Number of Years in which Loan to be repaid.
	£1.	£100.			£1.	£100.			
		£	s.	d.		£	s.	d.	
50	·0547767	5	9	6¾	·0273119	2	14	7½	50
51	·0545287	5	9	0¾	·0271907	2	14	4½	51
52	·0542945	5	8	7	·0270764	2	14	1¾	52
53	·0540733	5	8	1¾	·0269684	2	13	11¼	53
54	·0538644	5	7	8¾	·0268665	2	13	8¾	54
55	·0536669	5	7	4	·0267702	2	13	6½	55
56	·0534801	5	6	11½	·0266792	2	13	4¼	56
57	·0533034	5	6	7¼	·0265931	2	13	2¼	57
58	·0531363	5	6	3¼	·0265117	2	13	0¼	58
59	·0529780	5	5	11½	·0264347	2	12	10½	59
60	·0528282	5	5	8	·0263618	2	12	8¾	60

Sinking Funds.

In what cases sinking fund unnecessary.

Where a local authority can raise its loans on terms of their repayment by equal annual or half-yearly instalments of principal, or by equal annual or half-yearly payments of principal and interest combined, extending over the whole period allowed for the repayment of the loan, the establishment of a sinking fund is unnecessary, and much trouble will be avoided, if the loan is made repayable by either of these methods. The Public Works Loan Commissioners,[1] and many insurance and other companies will lend money to local authorities on these terms, provided that the period for repayment is not too long; but as a rule, the general public will not do so, as they object to receiving back their principal year by year by driblets. The

In what cases necessary.

consequence is, that a very large proportion of the loans of local authorities are raised, (1) by the issue of mortgages or debentures, the principal secured by which is made repayable at such times as may be agreed upon in each case between the borrowing authority and the lender; and (2) by the issue of stock, which is either redeemable at par or otherwise, at the end of a prescribed period, or which can only be redeemed by agreement between the owners and the local authority. Where loans are raised by either of these methods, it becomes necessary

[1] As to the terms on which the Public Works Loan Commissioners will lend money to local authorities empowered to borrow from them, see below, p. 80.

to provide for their discharge, either by means of a sinking fund, or by the annual appropriation of a fixed sum, in accordance with the requirements of section 14 of the Local Loans Act, 1875, or by the creation of a loans fund.[1]

Sinking funds under sec. 84 of Commissioners Clauses Act, 1847.

There is considerable variety in the statutory provisions, which regulate the formation of sinking funds. It was formerly the custom to incorporate with the Acts, enabling local authorities to borrow money, the provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners. Where this was done,[2] the local authority were required to provide for the repayment of their loans, in accordance with the provisions of section 84 of the Commissioners Clauses Act, 1847. That section provides as follows:—

"In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the commissioners shall, every year, appropriate and set apart out of such rates respectively, a sum equal to the prescribed part, and if no part be prescribed, one-twentieth part of the sums so borrowed respectively, as a sinking fund, to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer Bills or other Government securities, and to be increased by accumulation in the way of compound interest or otherwise, until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof which the commissioners shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner hereinafter mentioned."

Objections to this section.

These provisions are open to the following objections, viz.:—

(*a.*) They, in terms, require a sinking fund to be set aside in every case in which money is borrowed on the security of any rate, whether or not the money is repayable by instalments.

(*b.*) They do not expressly require the commissioners to make any provision for the repayment of money borrowed on the security of the property of the commissioners, or of their revenue, *e.g.*, that of their gas or

[1] Which of those methods is to be adopted in each case will depend on the Act under which the money is borrowed.

[2] For a list of the Public Acts, in which it has been done, see note 2 at p. 40.

water works, but only provide for the cases where the money is borrowed on the security of a rate.

(*c*). They require the amount to be annually paid into the fund to be the "prescribed part, or if no part is prescribed, one-twentieth part" of the money borrowed.

This provision would require the commissioners to set aside one-twentieth part annually for the redemption of a loan where a long period, say 60 years, is allowed for repayment, and the exact amount to be set aside every year is not prescribed by the special Act. This defect is as bad in its way as that contained in section 13 of the Local Loans Act, 1875, which, as is hereafter pointed out (see the note on that section in Appendix (3)), provides for the case where a period and not a part is prescribed by the special Act. Under the one Act, unless a part is prescribed, one-twentieth part is required to be set aside annually; and under the other, unless a period is prescribed, the loan is required to be repaid within twenty years.

(*d*.) They only allow the sinking fund to be invested in Exchequer Bills or other Government securities, whereas a wider power of investment is very desirable and is now usually allowed by Parliament in local Acts and Provisional Orders.

(*e*.) They make no provision, such as is contained in section 234 (5) of the Public Health Act, 1875, and section 15 (7) of the Local Loans Act, 1875 for the subsequent payment of interest into the fund, when a portion of the fund has been applied in the repayment of principal. The consequence of this omission is that it is impossible to determine within what period a loan will be repaid under the section. If, *e.g.*, one-fiftieth part of the loan is required to be annually paid into the fund, and is applied annually in the repayment of principal, the loan will not be repaid in less than 50 years. But if it is annually invested, and allowed to accumulate at 3 per cent., it will amount to a sufficient sum to repay the whole loan in less than 31 years. It thus is practically left in such a case to the option of the local authority whether they will repay their loan in 50 or 31 years, or in any intervening period.

Apparent intention of section.

In the majority of cases in which this section has been in-

corporated, the intention[1] has apparently been to allow the local authority to spread the repayment of the loan over a number of years proportionate to the fractional part required to be set aside annually as a sinking fund, *e.g.*, to allow 50 years for repayment, where one-fiftieth part is required to be set aside annually; and as has been shown above, this result will be brought about, where the local authority annually apply towards the repayment of their loans the fractional part set aside, before it has had time to accumulate. This method of repayment practically the same as that described above,[2] under the heading, "Equal annual or half-yearly repayments of principal," and has the disadvantage there pointed out of imposing an unduly heavy burden on the ratepayers during the earlier part of the period allowed for repayment. A more reasonable principle for the formation and regulation of a sinking fund has consequently been adopted in more recent Acts of Parliament, by means of which the burden of paying the principal and interest of the loan is more equitably adjusted between the successive ratepayers.

More reasonable principle for formation and regulation of sinking fund.

The best known examples of statutory enactments which provide for the formation of sinking funds on this principle are contained in section 234 (4) (5) of the Public Health Act, 1875, which will be found in the Fourth Chapter of this work, under the head "Sanitary Authorities," and in section 15 of the Local Loans Act, 1875, which will be found in Appendix (3). The former section only applies to moneys borrowed by sanitary authorities and joint boards under the Public Health Act; and the latter[3] to cases in which loans are raised by local authorities by the creation and issue of debentures or debenture stock under the Local Loans Act, and the local authority would have been entitled, if the loan had been raised by the issue of

Examples.

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[1] That this has not always been the intention may be inferred from sections 19 to 21 of the Burial Act, 1857 (20 & 21 Vict., c. 81), the provisions of which are set out in Chapter IV., under the head "Burial Boards." Under these sections, the amount required to be set aside annually as a sinking fund is one-fiftieth; but if the loan is raised by the grant of annuities for years, the number of years for which they are granted must not exceed thirty.

[2] See page 44.

[3] This explanation is given because some local authorities have wrongly assumed that they are entitled to provide for the discharge of their loans by the creation of a sinking fund in accordance with section 15 of the Local Loans Act, notwithstanding the fact that their loans have not been raised by the issue of debentures or debenture stock, in accordance with the provisions of that Act.

ordinary mortgages instead of by means of such debentures or debenture stock, to provide for its repayment by the establishment of a sinking fund, under the Act by which the power to borrow was conferred.

The accumulating system.

On reference to the two sections, it will be seen that the principle adopted in each of them is that the annual payments into the sinking fund shall be such amounts as, being accumulated at compound interest will, at the end of the period allowed for the repayment of the loan, be sufficient to repay it; and that in cases where the fund does not actually accumulate, in consequence of its being from time to time applied in the repayment of the loan, the local authority is required to make additional payments into the fund, in the one case equivalent to the interest which would have been produced by the amount of the fund so applied, and in the other, equivalent either to such interest, or to the interest which would have been payable on the part of the loan so paid off.

Effect of adopting this system.

The effect of these provisions will be shown by the following examples.

The amount to be set aside annually and accumulated as a sinking fund under either of the sections, in order to repay £1,000 in sixty years, taking the rate of accumulation at 2½ per cent., will be £7 7*s.* 3*d.*, whereas, if, in accordance with the requirements of the Commissioners Clauses Act, one-sixtieth part of the loan is annually appropriated for this purpose, the amount to be annually set aside for the repayment of the loan will be £16 13*s.* 4*d.*

If, as has been the case in some local Acts, a longer period than sixty years is allowed for the repayment of the loan, the disproportion will be still greater—*e.g.*, if one hundred years are allowed, the amount to be required to be set aside annually will be only £2 6*s.* 3*d.* in the one case, and £10 in the other.

If a higher rate of accumulation is taken as the basis of the calculation, the amounts to be annually set aside under the Public Health Act and the Local Loans Act, will, of course, be considerably reduced—*e.g.*, in the above cases they will be £6 2*s.* 8*d.*, if the rate is taken at 3 per cent.; £5 1*s.* 10*d.*, if it is taken at 3½ per cent.; and £4 4*s.* 1*d.*, if it is taken at 4 per cent, as against £7 7*s.* 3*d.*, the amount to be annually set aside to redeem £1,000 in sixty years, taking the rate of accumulation at 2½ per cent. Similarly they will be £1 12*s.* 11*d.*,

£1 3*s.*, and 16*s.* 2*d.*, according as the rate is taken at 3, 3½, or 4 per cent., as against £2 6*s.* 3*d.*, the amount to be annually set aside to redeem £1,000 in one hundred years, if the rate of accumulation is taken at 2½ per cent.

Benefit to present ratepayers.

From the above examples it will be seen that the ratepayers, during the first few years allowed for the repayment of a loan, will obtain very considerable advantages from the adoption of the accumulating system, as compared with the non-accumulating. The accumulating system has, therefore, been very generally adopted for many years past in local Acts and also in Provisional Orders.

Compound interest table necessary.

In order to calculate the amount of the annual payments into any sinking fund, which is formed on the accumulating system, and the amount which should be in the sinking fund at any time during the period allowed for the repayment of the loan, a compound interest table is of course necessary. The following table, which gives the amount of one pound per annum accumulating at 2½, 3, 3½, and 4 per cent. compound interest for any number of years from one to one hundred, contains all the information which is necessary to enable any local authority to make the above calculations. For example, if it is desired to find the amount of the annual payments into a sinking fund, which will repay £50,000 in one hundred years, the rate of accumulation being 3 per cent., it will be found on reference to the table that one pound per cent accumulated at this rate will produce in 100 years £607 ·28773269. It therefore follows that £82 6*s.* 8*d.* per annum will produce £50,000 in the same period, if accumulated at the same rate.

Application of the table.

		607·28773269
		80
£80	—	48583·0186152
2	—	1214·5754
⅓	—	202·4291
£82⅓	—	50,000·023

If it is desired to find the amount which should be in this sinking fund at the end, say, of thirteen years, it will be found from the table that one pound per annum accumulating at 3 per cent. will amount to £15·61779045 at the expiration of that period. It therefore follows that £82 6*s.* 8*d.* accumulating at that rate,

will amount to £1,285 17*s.* 3½*d.* at the expiration of thirteen years.

15.61779045
82⅓
3123558090
12494232360
520593015
1285·86474705
20
17·2949410
12
3·5392920

TABLE OF COMPOUND INTEREST.

The amount of one pound per annum in any number of years from one to one hundred, accumulating at 2½, 3, 3½, and 4 per cent.

Years	2½ per cent.	3 per cent.	3½ per cent.	4 per cent.	Years
1	1·0000,0000	1·0000,0000	1·0000,0000	1·0000,0000	1
2	2·0250,0000	2·0300,0000	2·0350,0000	2·0400,0000	2
3	3·0756,2500	3·0909,0000	3·1062,2500	3·1216,0000	3
4	4·1525,1562	4·1836,2700	4·2149,4287	4·2464,6400	4
5	5·2563,2852	5·3091,3581	5·3624,6588	5·4163,2256	5
6	6·3877,3673	6·4684,0988	6·5501,5218	6·6329,7546	6
7	7·5474,3015	7·6624,6218	7·7794,0751	7·8982,9448	7
8	8·7361,1590	8·8923,3605	9·0516,8677	9.2142,2626	8
9	9·9545,1880	10·1591,0613	10·3684,9581	10·5827,9531	9
10	11·2033,8177	11·4638,7931	11·7313,9316	12·0061,0712	10
11	12·4834,6631	12·8077,9569	13·1419,9192	13·4863,5141	11
12	13·7955,5297	14·1920,2956	14·6019,6164	15·0258,0546	12
13	15·1404,4179	15·6177,9045	16·1130,3030	16·6268,3768	13
14	16·5189,5284	17·0863,2416	17·6769,8636	18·2919,1119	14
15	17·9319,2666	18·5989,1389	19·2956,8088	20·0235,8764	15
16	19·3802,2483	20·1568,8130	20·9710,2971	21·8245,3114	16
17	20·8647,3045	21·7615,8774	22·7050,1575	23·6975,1239	17
18	22·3863,4871	23·4144,3537	24·4996,9130	25·6454,1288	18
19	23·9460,0743	25·1168,6844	26·3571,8050	27·6712,2940	19
20	25·5446,5761	26·8703,7449	28·2796,8181	29·7780,7858	20
21	27·1832,7405	28·6764,8572	30·2694,7068	31·9692,0172	21
22	28·8628,5590	30·5367,8030	32·3289,0215	34·2479,6979	22

TABLE OF COMPOUND INTEREST—*continued.*

Years	2½ per cent.	3 per cent.	3½ per cent.	4 per cent.	Years
23	30·5844,2730	32·4528,8370	34·4604,1373	36·6178,8858	23
24	32·3490,3798	34·4264,7022	36·6665,2821	39·0826,0413	24
25	34·1577,6393	36·4592,6432	38·9498,5669	41·6459,0830	25
26	36·0117,0803	38·5530,4225	41·3131,0168	44·3117,4463	26
27	37·9120,0073	40·7096,3352	43·7590,6024	47·0842,1441	27
28	39·8598,0075	42·9309,2252	46·2906,2734	49·9675,8299	28
29	41·8562,9577	45·2188,5020	48·9107,9930	52·9662,8631	29
30	43·9027,0316	47·5754,1571	51·6226,7728	56·0849,3776	30
31	46·0002,7074	50·0026,7818	54·4294,7098	59·3283,3527	31
32	48·1502,7751	52·5027,5852	57·3345,0247	62·7014,6868	32
33	50·3540,3445	55·0778,4128	60·3412,1005	66·2095,2743	33
34	52·6128,8531	57·7301,7652	63·4531,5240	69·8579,0853	34
35	54·9282,0744	60·4620,8181	66·6740,1274	73·6522,2487	35
36	57·3014,1263	63·2759,4427	70·0076,0318	77·5983,1387	36
37	59·7339,4794	66·1742,2259	73·4578,6930	81·7022,4642	37
38	62·2272,9664	69·1594,4927	77·0288,9472	85·9703,3628	38
39	64·7829,7906	72·2342,3275	80·7249,0604	90·4091,4973	39
40	67·4025,5354	75·4012,5973	84·5502,7775	95·0255,1572	40
41	70·0876,1737	78·6632,9753	88·5095,3747	99·8265,3635	41
42	72·8398,0781	82·0231,9645	92·6073,7128	104·8195,9780	42
43	75·6608,0300	85·4838,9234	96·8486,2928	110·0123,8171	43
44	78·5523,2308	89·0484,0911	101·2383,3130	115·4128,7698	44
45	81·5161,3116	92·7198,6139	105·7816,7290	121·0293,9206	45
46	84·5540,3443	96·5014,5723	110·4840,3145	126·8705,6774	46
47	87·6678,8529	100·3965,0095	115·3509,7255	132·9453,9045	47
48	90·8595,8243	104·4083,9598	120·3882,5659	139·2632,0607	48
49	94·1310,7199	108·5406,4785	125·6018,4557	145·8337,3431	49
50	97·4843,4879	112·7968,6729	130·9979,1016	152·6670,8368	50
51	100·9214,5751	117·1807,7331	136·5828,3702	159·7737,6703	51
52	104·4444,9395	121·6961,9651	142·3632,3631	167·1647,1771	52
53	108·0556,0629	126·3470,8240	148·3459,4958	174·8513,0642	53
54	111·7569,9645	131·1374,9488	154·5380,5782	182·8453,5868	54
55	115·5509,2136	136·0716,1972	160·9468,8984	191·1591,7302	55
56	119·4396,9440	141·1537,6831	167·5800,3099	199·8055,3994	56
57	123·4256,8676	146·3883,8136	174·4453,3207	208·7977,6154	57
58	127·5113,2893	151·7800,3280	181·5509,1869	218·1496,7200	58
59	131·6991,1215	157·3334,3379	188·9052,0085	227·8756,5888	59
60	135·9915,8995	163·0534,3680	196·5168,8288	237·9906,8524	60
61	140·3913,7970	168·9450,3991	204·3949,7378	248·5103,1265	61
62	144·9011,6419	175·0133,9110	212·5487,9786	259·4507,2516	62
63	149·5236,9330	181·2637,9284	220·9880,0579	270·8287,5416	63
64	154·2617,8563	187·7017,0662	229·7225,8599	282·6619,0433	64
65	159·1183,3027	194·3327,5782	238·7628,7650	294·9683,8050	65

TABLE OF COMPOUND INTEREST—*continued.*

Years	2½ per cent.	3 per cent.	3½ per cent.	4 per cent.	Years
66	164·0962,8853	201·1627,4055	248·1195,7718	307·7671,1572	66
67	169·1986,9574	208·1976,2277	257·8037,6238	321·0778,0035	67
68	174·4286,6313	215·4435,5145	267·8268,9406	334·9209,1236	68
69	179·7893,7971	222·9068,5800	278·2008,3535	349·3177,4886	69
70	185·2841,1421	230·5940,6374	288·9378,6459	364·2904,5881	70
71	190·9162,1706	238·5118,8565	300·0506,8985	379·8620,7716	71
72	196·6891,2249	246·6672,4222	311·5524,6399	396·0565,6025	72
73	202·6063,5055	255·0672,5948	323·4568,0023	412·8988,2266	73
74	208·6715,0931	263·7192,7727	335·7777,8824	430·4147,7557	74
75	214·8882,9705	272·6308,5559	348·5300,1083	448·6313,6659	75
76	221·2605,0447	281·8097,8126	361·7285,6121	467·5766,2125	76
77	227·7920,1708	291·2640,7469	375·3890,6085	487·2796,8610	77
78	234·4868,1751	301·0019,9693	389·5276,7798	507·7708,7355	78
79	241·3489,8795	311·0320,5684	404·1611,4671	529·0817,0849	79
80	248·3827,1265	321·3630,1855	419·3067,8685	551·2449,7683	80
81	255·5922,8046	332·0039,0910	434·9825,2439	574·2947,7590	81
82	262·9820,8748	342·9640,2638	451·2069,1274	598·2665,6694	82
83	270·5566,3966	354·2529,4717	467·9991,5469	623·1972,2962	83
84	278·3205,5565	365·8805,3558	485·3791,2510	649·1251,1880	84
85	286·2785,6954	377·8569,5165	503·3673,9448	676·0901,2355	85
86	294·4355,3378	390·1926,6020	521·9852,5328	704·1337,2849	86
87	302·7964,2213	402·8984,4001	541·2547,3715	733·2990,7763	87
88	311·3663,3268	415·9853,9321	561·1986,5295	763·6310,4074	88
89	320·1504,9100	429·4649,5500	581·8406,0580	795·1762,8237	89
90	329·1542,5327	443·3489,0365	603·2050,2701	827·9833,3366	90
91	338·3831,0961	457·6493,7076	625·3172,0295	862·1026,6701	91
92	347·8426,8735	472·3788,5188	648·2033,0505	897·5867,7369	92
93	357·5387,5453	487·5502,1744	671·8904,2073	934·4902,4464	93
94	367·4772,2339	503·1767,2396	696·4065,8546	972·8698,5442	94
95	377·6641,5398	519·2720,2568	721·7808,1595	1012·7846,4860	95
96	388·1057,5783	535·8501,8645	748·0431,4451	1054·2960,3454	96
97	398·8084,0177	552·9256,9205	775·2246,5456	1097·4678,7593	97
98	409·7786,1182	570·5134,6281	803·3575,1747	1142·3665,9096	98
99	421·0230,7711	588·6288,6669	832·4750,3059	1189·0612,5460	99
100	432·5486,5404	607·2877,3269	862·6116,5666	1237·6237,0479	100

Rate of accumulation.

Where the accumulating system of sinking funds is adopted by a local authority, it is obviously to the advantage of the ratepayers during the earlier portion of the period prescribed for the repayment of the loan, that the rate of accumulation, which is taken as the basis of calculation to determine the

amount to be annually set aside and accumulated as a sinking fund, should be as high a rate, as can be taken with due regard to the rate, at which the investments of the sinking fund can reasonably be expected to accumulate. At the same time it is of great importance in the interests of future ratepayers that too high a rate should not be taken as the basis of calculation, for if the rate so taken is higher than that at which the sinking fund will actually accumulate, the sinking fund will, at the end of the prescribed period, be insufficient in amount for the purpose for which it is created, and a considerable portion of the loan, for the repayment of which provision should be made by the earlier ratepayers, may be left to be discharged by their successors.

Difficulty in determining the rate.

It is, of course, impossible to predict with any degree of certainty at what rate of interest the sinking fund will actually accumulate, where, as is sometimes the case, the period prescribed for its continuance is a long one—say, sixty years:[1] for this is a question depending, not so much on the rate of interest which the securities, in which the fund may be invested, will produce at the time when the sinking fund is commenced, as on the rate, which they will produce from time to time during the next sixty years; and this rate cannot possibly be ascertained with accuracy beforehand.

Probable fall in rate of interest on investments.

As the rate of interest payable on securities, such as those in which sinking funds are likely to be invested, has been constantly falling of late years, and there are at present no indications that the minimum rate of interest payable on them has

[1] There is one case in which the above observation is not correct, viz., that in which the loan has been raised at an uniform rate of interest upon terms which will admit of the whole of the sinking fund in hand at the end of each year being applied towards the repayment of the loan, and also upon terms which will not enable the lenders to demand repayment of their principal at any period other than those at which the amounts in the sinking fund will be sufficient to repay them respectively. In this case, the rate of accumulation may be taken as the rate of interest payable on the loan; for the sinking fund will be invested from year to year in the securities of the borrowing authority, and may be taken as practically accumulating at the rate of interest payable on the loan. This is a case which can seldom, if ever, exactly arise in practice; for the amounts in the sinking fund at the end of each year will be broken amounts, such as the lenders are not likely to be willing to take back in part repayment of their principal. But an approximation to this case may sometimes be arrived at, when the money is borrowed upon terms, which will enable nearly all the sinking fund in hand in each year to be applied towards the repayment of the loan. In such a case, assuming that the other conditions above referred to are satisfied, the sinking fund will accumulate at approximately the same rate of interest as that payable on the loan.

been reached, it will be prudent, in determining the rate, which is to be adopted in calculating the amounts to be annually paid into the sinking fund, to take a rate somewhat lower than that which the investments of the sinking fund will produce at the time of the commencement of the fund, for not only will it be better to err, if at all, on the safe side, and to pay more rather than less than the necessary amount into the fund; but it should also be remembered that any error made in determining the rate of interest will be of less importance during the earlier part of the prescribed period, when the amount of the securities in the fund is small, than it will be afterwards as the fund increases.

Possible depreciation or rise in value of investments.

Another contingency, against which it is impossible to provide beforehand with any degree of certainty, is the possible depreciation or rise in value of the securities in which the sinking fund is invested. If the rate of interest payable on similar securities falls as time goes on, and prudence has been exercised in the selection of investments, it may be hoped that some accretion to the fund may take place from the rise in value of the investments of the fund. It will not be safe to calculate beforehand upon any such accretion; but if such an accretion is obtained in consequence of the rate of interest falling, it may, to some extent, diminish the evil results of taking too high a rate of interest for the purposes of the original calculation.

Investments of sinking fund.

As the rate of interest which is to form the basis for calculating the annual amounts to be paid into the sinking fund, will, in most cases[1] be dependent upon the rate of interest which may be expected to be derived from the investments of the fund, it is manifestly desirable that the power of investment should not be too strictly limited. In section 234 (4) of the Public Health Act, 1875, it is limited to Exchequer Bills and other Government securities. By section 15 of the Local Loans Act, 1875, all sums paid into the sinking fund are required to be invested "in the prescribed manner," (*i.e.*, in the manner prescribed by the Act authorizing the local authority to borrow), "and if no manner is prescribed, or if a manner having been prescribed, the Local Government Board shall assent, in securities in which trustees are by law for the time being

[1] In some local Acts the rate is determined by the Act itself. See the Stalybridge Extension and Improvement Act, 1881 (44 & 45 Vict., c. cxci., s. 144), and the local Acts of the last session, authorizing the issue of corporation stock, where it is fixed at 3½ per cent.

authorized to invest,[1] or in debentures, debenture stock, or annuity certificates issued under this Act." It would appear from sub-section (7) of the same section, that this power would enable a local authority to invest in its own securities, if the same are issued under the Local Loans Act, but not in the securities of any local authority, unless the same are issued under that Act. There would seem to be no sufficient reason why a local authority should not be empowered to invest its sinking funds in the securities of any other local authority, whether the same have been issued under the Local Loans Act or not; and power so to invest them has frequently been given by Parliament of late years, both by local Acts and Provisional Orders.[2]

Some local authorities have also been empowered by local Acts, whether their sinking funds are regulated by the Local Loans Act, or otherwise, to invest such funds in their own securities, under whatever Act the same may have been issued;[3] but where separate sinking funds are required to be set aside for different classes of securities, there are obvious objections to such a power being given unaccompanied by any directions to meet the case, where securities belonging to one class are purchased out of a sinking fund which has been set aside for the purpose of redeeming securities belonging to another class. In such a case some provision should apparently be made for ensuring that an equivalent part of the sinking fund required to be set aside for redeeming the purchased securities, is applied towards the redemption of the securities, which, if the purchase had not been made, would have been redeemable out of the

[1] These securities at the present time include all the permanent Parliamentary stocks and public funds of the United Kingdom, freehold and copyhold securities in England, Wales, and Ireland, real securities in Scotland, the stock of the banks of England and Ireland, East India stocks charged on the revenues of India, "securities, the interest on which is guaranteed by Parliament," charges created under the Improvement of Land Act, 1864 (see sec. 60 of that Act), and the consolidated stock issued by the Metropolitan Board of Works, as to which, see above, page 29.

[2] See, *e.g.*, the Stalybridge Extension and Improvement Act, 1881 (44 & 45 Vict., c. cxci., s. 144), the Accrington Corporation Tramways Act, 1882 (45 & 46 Vict., c. cxviii., s. 57), Art. 19 of the Salford Provisional Order, confirmed by the 45 & 46 Vict., c. 97, Art. 4 of the Ashton-under-Lyne and Art. 2 of the Heckmondwike Provisional Orders, confirmed by the 45 & 46 Vict., c. 63, and Art. 10 of the Rochdale, and Art. 2 of the Sowerby Bridge Provisional Orders, confirmed by the 45 & 46 Vict., c. 63.

[3] See, *e.g.*, the Stalybridge Extension and Improvement Act, 1881 (44 & 45 Vict., c. cxci., s. 144), the Newcastle-upon-Tyne Improvement Act, 1882 (45 & 46 Vict., c. clxxii., s. 97).

sinking fund applied in the purchase, assuming that the latter securities are not required to be redeemed before the time when the first mentioned sinking fund will be of sufficient amount to redeem them. If, however, they are required to be redeemed before that time, it would seem that the purchase should not be allowed to take place,[1] unless it is clear that other funds will be available for their redemption when they fall due.

Speedy investment of fund desirable.

As the amounts of the annual payments into a sinking fund, formed on the accumulating principle, will have been calculated on the assumption that each of such payments will accumulate from the day on which it becomes due, the amount to be annually set aside should be invested on or before the day on which it falls due; and in cases where this is impracticable, the interest accruing due to the sinking fund *de die in diem*, should be treated as a debt to the sinking fund, and added to the amount invested, when the investment takes place. And if at any time, after the formation of a sinking fund, it is found that the fund does not, as a matter of fact, accumulate at as high a rate of interest, as was anticipated, it will manifestly be advisable that the local authority should, during the year in which the deficiency arises, make good the difference between the amount which it was calculated would accumulate during that year, and the amount which has actually accumulated. If these deficiencies are made good during the years in which they arise, their burden to the ratepayers will be scarcely perceptible; but if they are left to be afterwards made good, they will annually accumulate to an extent which may make them a very serious incubus on posterity. The same remark applies to deficiencies arising from any other causes. In order to ascertain whether there are any such deficiencies, the amount which is actually in the sinking fund or has been applied in the redemption of loans, should be carefully compared from time to time with the amount which, according to the calculations on which the fund is based, should be in the fund or have been

Rectification of sinking fund.

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[1] By sec. 20 of the Metropolitan Board of Works (Money) Act, 1881 (which is quoted in Chapter IV. under the head "Metropolitan Board of Works"), the Board of Works are empowered to apply their loans fund, which is set aside for the redemption of stock in 60 years, in lending money to other local authorities, only in cases where such money is repayable to the Board within 30 years from the date of the loan. In this case, therefore, the loan will be repaid to the loans fund long before the fund will be required for the redemption of the stock.

so applied. The manner in which this may be done has already been explained at pages 61 and 62.

Personal liability of members of local authorities where the sinking fund is not invested as required by the statute.

The personal liabilities of the members of a local authority to make good any loss which may result to the sinking fund in consequence of its investment in unauthorized securities, or of any neglect to invest it in authorized securities, seem to be the same as those which are incurred by trustees who invest trust funds otherwise than in accordance with the terms of their trust. In the case of *Attorney-General* v. *the Corporation of Belfast* (4 Irish Ch. Rep. 119), where the corporation were required by a local Act to appropriate out of the annual rates a percentage upon the amount borrowed, and to apply the same either to the gradual extinction of the mortgage debt, or to the formation of a sinking fund to be accumulated for its discharge, and were empowered to invest the sum to be so accumulated in the public stocks, or in Government or real securities, the Corporation had so far complied with their statutory requirements as to appropriate a yearly sum, and to permit it to accumulate as a sinking fund; but instead of investing the money so appropriated in the securities authorized by the statute, they had directed the borough treasurer to place it in a private bank, of which he was a director, and he had claimed a lien on it, as against an advance made to the Corporation on an overdrawn account. In this case it was held by the Lord Chancellor of Ireland that it was the duty of the Corporation (as they had not paid off any portion of the mortgage debt) to have formed a sinking fund in the manner and for the purpose mentioned in the Act; and the treasurer and sixteen members of the Corporation, who had been made respondents to the information, were declared liable to make good the amount, with interest, and were ordered to invest it in stock, and to transfer the same to the credit of the cause. See also *Moyle* v. *Moyle* (2 R. & M. 710), *Darke* v. *Martyn* (1 Bea. 525), *Rehden* v. *Wesley* (29 Bea. 213), and the numerous other cases in which trustees have been held personally responsible for breaches of trust in connexion with the investment of trust funds.

Attorney-General v. *Belfast Corporation.*

Power of lender to take proceedings with respect to sinking funds.

As regards the steps which a borrower may take to require a local authority to comply with the statutory obligations in relation to its sinking fund, see also *Reg.* v. *the Churchwardens of St. Michael's, Southampton* (6 Ell. & Bl. 807), to which reference has already been made at page 23.

Annual Appropriations of fixed Sums for Payment of Principal and Interest.

The Local Loans Act, 1875, sec. 13.

By section 13 of the Local Loans Act, 1875, the annual appropriation, as in that Act mentioned, of a fixed sum to the discharge of a certain portion of the loan, is recognized as one of the methods by which the discharge of a loan under that Act may be secured. From the following section it appears that the fixed sum in question is to be "an equal sum of money of such amount as will at or before the expiration of the prescribed period, pay off the whole of such loan or part of a loan, and the interest thereon." The local authority are required in each year to pay out of such fixed sum the interest due on the loan or part of the loan, and to appropriate the residue of such sum to the repayment of a corresponding amount of debentures or the redemption of a corresponding amount of debenture stock. It is, however, contemplated by the section that "a fractional sum" will sometimes remain out of the residue, and this sum is directed by the section "to be carried to the credit of the annual sum to be raised in the ensuing year." What is meant by "a fractional sum," and by these directions is not clear. As a matter of fact, where the mode of repayment contemplated by this section is adopted for debentures, there will nearly always be a considerable sum remaining unapplied at the end of the year, unless the debentures are issued for very small sums; and if the whole loan is raised by the issue of one debenture, the total amount of the residue will year after year remain unapplied; and if it is a "fractional sum" within the meaning of the section, it must be carried to the credit of the annual sum to be raised in the ensuing year. No provision is made for its investment and accumulation, and if the fixed annual sum required to be appropriated under the section has been calculated on the principle of an annuity terminable at the end of the prescribed period (and it would be next to impossible to calculate it on any other principle), the amounts thus carried from year to year "to the credit of the annual sum to be raised in the ensuing year," will, having regard to the principles on which annuities are calculated, be inadequate to pay off the debenture at the end of the prescribed period, unless they are from year to year invested and accumulated at a rate of interest as high as that at which the annuity is calculated, or unless the local

Objections to this method of repayment.

Defects of section.

authority are required annually to pay such interest on them. The same remarks will, to a lesser extent, apply to the cases where the loan is raised by the issue of more than one debenture, in every case in which the debentures are not issued in amounts exactly equivalent to the broken sums representing the residue, which will remain every year, after payment of the interest on the outstanding debentures and upon terms which will enable the local authority to require the lenders to take back such broken sums in the particular years in which the authority will have them in hand. It may be taken for granted that except in very exceptional cases the public would not take debentures for such amounts or on such conditions.

The expression "carried to the credit of the annual sum to be raised in the ensuing year," if construed strictly, would also imply that the annual sum to be so raised is to be diminished to the extent of the sum carried to its credit. This can hardly have been the intention of the framers of the Act, for if this were done, the amounts appropriated would be altogether insufficient for the discharge of the loan.

The section is not equally open to objection where the mode contemplated by it is adopted for the redemption of debenture stock, assuming that the stock is redeemable compulsorily at any time, and that the annuity is so calculated that it will be sufficient to redeem the stock at the price at which it may be purchased compulsorily; because in such a case the whole of the broken sums above referred to can be applied in every year to the redemption of the stock. But the Act as at present framed neither requires the stock to be issued on terms which will admit of its being redeemed at any time compulsorily, nor the annuity to be calculated on the principle above indicated; and if either of these conditions is not satisfied, the annual sum set aside may prove insufficient for the ultimate redemption of the stock within the prescribed period, unless the amounts remaining over from year to year are invested or accumulated, or interest at a rate as high as that at which the annuity is calculated, is annually paid on them by the local authority. The defects of the section in its present form have been so well recognized by Parliament in the case of local Acts, that attempts have been made to amend it in such Acts so as to remove some of the objections, to which it is at present open, from an arithmetical point of view. These amendments of course apply only to the local authorities of the particular

districts affected by those Acts; and until the section has been amended by the general law, it is impossible to recommend any local authority to act under it, on account, not only of its ambiguity in certain respects, but also of its manifest imperfections in others. It may also be mentioned that no similar provisions for the repayment of loans are contained in any other Act; and that the necessity for them is not obvious. The mode of repayment contemplated by them will apparently be in principle the same as that of a sinking fund, when the necessary amendments are made in the section; the main point of difference being that it will apparently enable the local authority to keep in hand from year to year the unapplied balance of the fixed annual sum, instead of investing it; a practice which is open to objection, in every case in which the balance is not so small as to render it undesirable to invest it.

Loans Funds.

Object and nature of loans fund.

The local Acts passed during the last three sessions, which have authorized the issue of corporation and county stock by local authorities, and the Birmingham Provisional Order of 1880, which was made with the same object, have, in each case, provided for the formation of a loans fund, out of which the dividends on the stock are to be paid, and the stock itself is from time to time to be purchased and redeemed. Where a fund of this description is established, the local authority must in each year pay into it an amount sufficient for the purpose of paying the dividends which will fall due during that year, and also the amount required by the Act to be paid during the year, for the purpose of extinguishing and redeeming the stock. There is not necessarily any difference between the principle to be adopted in determining the amount to be paid into a loans fund for the latter purpose, and that adopted in determining the amount of the annual payments into a sinking fund; but as the stock, in respect of which the loans fund is established, is usually created for the purpose of raising several separate loans, it sometimes happens that several separate calculations are necessary, in order to determine the amount to be paid into the fund. This is the case when, as is by no means rare, the local Act provides that the amounts paid into the loans fund for the purpose of redeeming and extinguishing the stock, shall be the same amounts as would have

been payable into sinking funds, if the loans raised by the creation of the stock had been raised by the issue of ordinary securities. On the other hand, when, as is sometimes done, the local Act substitutes for existing statutory provisions relating to the sinking funds of the local authority, one uniform provision to the effect that the amount to be annually paid into the loans fund for the redemption of the stock, shall be such an amount as, with accumulations, will be sufficient to redeem the stock within a given period, the principle to be adopted in determining this amount will be precisely the same as that to be adopted in determining the amount to be annually paid into a sinking fund for the purpose of securing the discharge of an ordinary loan of the same amount within the same period.

Elaborate calculations usually necessary.

As a loans fund is usually established in respect of stock issued for the purpose of raising loans, the burden of which should be borne by different funds and rates, it becomes necessary to make somewhat elaborate provisions for the purpose of ensuring that each of these funds and rates shall contribute in its proper proportion to the loans fund towards the payment of the dividends on, and the redemption of, the stock. Examples of such provisions are contained in sections 73 to 76, and sections 81 and 82 of the Derby Corporation Act, 1882, which will be found in the Appendix (4).

And separate accounts required to be kept.

In the local Acts passed during the last Session, every local authority, establishing a loans fund, was also required to keep elaborate separate accounts relative to (*a*) each undertaking or purpose for or in respect of which any statutory borrowing power is exercised by them by the issue of stock, and (*b*) each statutory borrowing power so exercised. The nature of these accounts will be seen on reference to section 80 of the last mentioned Act. An abstract of these accounts is required to be annually sent to the Local Government Board in a form prescribed by that Board See section 108 of the same Act.

Applicability of loans fund system to cases where authority has raised many loans.

Although loans funds have as yet been prescribed only in connexion with corporation and county stock, there seems to be no reason, from a financial point of view, why power should not be given by statute to local authorities to establish them, with some modifications, on principles similar to that adopted in the last mentioned Act, for the purpose of providing for payment of the interest and repayment of the principal of their loans, whether or not the same have been raised by the issue of stock. Great inconveniences arise, in practice, from the

necessity of forming a number of separate sinking funds for the repayment of different loans raised by the same local authority, and in the application of such funds towards the repayment of the particular loans for the discharge of which they are set aside; and these inconveniences would be obviated if one loans fund could be formed on the above principle for all the loans of the local authority. Moreover, the provisions relating to loans funds contained in the last-mentioned Act, and in the other local Acts of the last Session, which were drafted on the same model, are very superior in many matters of detail to most of the existing statutory provisions of the general law regulating the formation, investment, and application of sinking funds.

Annual Returns to the Local Government Board.

Returns under local Acts as to repayment and sinking funds.

For the last ten years, with very few exceptions, every local Act which has empowered a local authority to borrow money, has required an annual return to be made by the clerk or treasurer of the authority to some central department, usually to the Local Government Board, showing the manner in which the local authority is complying with its statutory requirements as regards the repayment of the money borrowed under such local Act, or the provision of an adequate sinking fund for that purpose. The return has to be made in a form prescribed by the department, and to be verified by statutory declaration; and in the event of any wilful default on the part of the officer whose duty it is to make it, a penalty, not exceeding twenty pounds has, in most cases, been imposed. If from this return or otherwise it appears that the local authority have neglected to make any repayment, which they are directed by the Act to make, or to set aside the requisite amount for any sinking fund, the department, to whom the return is made, have the power to make an order requiring the local authority to make good their default, and any such order may be enforced by writ of *mandamus*.

Powers of department to whom the return is made.

Returns under Provisional Orders.

Similar returns have been required to be made to the Local Government Board, of late years, in every case in which the borrowing powers of local authorities have been extended by means of Provisional Orders. And where a local authority raise a loan by the issue of securities under the Local Loans Act, 1875, and elect to secure the discharge of such loan by the establishment of a sinking fund, a similar return is required

And Local Loans Act.

to be made to the Local Government Board under section 16 of that Act.

Annual returns of a somewhat more elaborate character are required to be made to the Local Government Board under the local Acts, which have authorized the creation of corporation and county stock. In this case the object of the return is to show that the local authority have complied with their statutory duties as regards the provision and application of the loans fund. Returns as to loans funds.

In Appendix (5) will be found copies of the orders, which have been made by the Local Government Board, prescribing the forms of the annual returns to be made to them for the above purposes under the Local Loans Act, 1875, and the local Acts and Provisional Orders of the year 1880. No forms have yet been prescribed by that Board for the abstracts of accounts relating to corporation and county stock and loans funds created under the local Acts of the last Session. As these Acts differ in several respects from the local Acts of former years, which have authorized the issue of this kind of stock and the formation of loans funds for the redemption of the same, and the payment of dividends thereon, it is probable that the forms which will be prescribed for them will differ, in some respects, from the forms which have hitherto been prescribed for the returns as to loans funds. Orders prescribing forms of return.

The fact that all of the above returns are required to be made annually, and to be checked by a government department, will render it important that local authorities should satisfy themselves as to the precise nature of their duties with respect to the repayment of their loans, and the management of their sinking funds and loans funds. Much trouble will be saved if the returns show clearly that these duties have been complied with in the first instance.

CHAPTER III.

ADVANCES BY THE PUBLIC WORKS LOAN COMMISSIONERS.

Purposes for which the Commissioners may lend Money.

The Public Works Loans Act, 1875 (38 & 39 Vict., c. 89), First Schedule.

THE Public Works Loan Commissioners are empowered by various Acts of Parliament to lend money to local authorities and others for various works of public utility. The greater number of the purposes for which these advances may be made are enumerated in the First Schedule of the Public Works Loans Act, 1875. They are as follows:—

Baths and wash-houses provided by local authorities; burial grounds provided by burial boards, or (in Scotland) by burial boards or parochial boards; conservation or improvement of rivers or main drainage; docks; harbours and piers, and any works for which the Public Works Loan Commissioners are authorized to lend by section 3 of the Harbours and Passing Tolls, &c., Act, 1861; improvement of towns; labourers' dwellings; lighthouses, floating and other lights for the guidance of ships, buoys and beacons; lunatic asylums of any county or borough in Great Britain, or of any district or parochial board in Scotland; police stations and justices' rooms of any county or borough in Great Britain, and the offices connected therewith, also sheriff court buildings in Scotland; prisons; public libraries and museums; any schoolhouse or work for which a school board is authorized to borrow under the Elementary Education Acts, 1870 and 1873, or any Act amending the same, or under the Education (Scotland) Act, 1872; waterworks, established or carried on by a sanitary or other local authority; workhouses or poor-houses, and any work for which guardians of the poor, or (in Scotland) any parochial board, are authorized to borrow under the general Acts relating to the relief of the poor; any work for which a sanitary authority are authorized to borrow under the Public Health Act, 1875; any work for which police commissioners are authorized to borrow under the General Police and Improvement

(Scotland) Act, 1862, and any Act amending the same; any work for which a local authority are authorized to borrow under the Public Health (Scotland) Act, 1867, or any Act amending the same; any work for which the commissioners are authorized to lend by any Act passed after the passing of the Public Works Loans Act, 1875.

Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict., c. 74, s. 49 (4)).

The commissioners have since been empowered, by section 49 (4) of the Contagious Diseases (Animals) Act, 1878, to advance money to local authorities under that Act on the recommendation of the Local Government Board; and more recently, by the Public Works Loans Act, 1879 (42 & 43 Vict., c. 77, ss. 5, 6), to lend money to the Peabody Trustees, and to any company, society or association established for the purpose of constructing or improving dwellings for the labouring classes, and towards the purchase of land for that purpose.

Advances to the Peabody Trustees, &c.

Artizans' and Labourers' Dwellings Act (1868), Amendment Act, 1879 (42 & 43 Vict., c. 64, s. 22).

By section 22 of the Artizans' and Labourers' Dwellings Act (1868), Amendment Act, 1879, the commissioners have also been empowered to lend to any local authority,[1] and local authorities have been empowered to borrow from the commissioners, such sums as they may require for the purposes of that Act, subject to the following regulations:—

Regulations as to advances under this Act.

1. The amount of every loan must be sanctioned by the Commissioners of the Treasury:
2. No loan must be made except for the purpose of defraying the cost of building suitable dwellings for the labouring classes, or of defraying the cost of purchasing sites, and of building thereon such dwellings:
3. Every loan, with interest thereon at such rate as shall be agreed upon, but not a less rate of interest than four per centum per annum, must be secured by a mortgage [in the form set forth in the Third[2] Schedule to the Act] of certain dwellings for the labouring classes erected or improved, or about to be erected or improved, by a local authority, in pursuance of the Act, and of the sites of such dwellings,

[1] The local authorities for the purposes of this Act are, in the City of London and the liberties thereof, the Commissioners of Sewers of the City of London; in the remainder of the Metropolis, the Metropolitan Vestries and District Boards, and the Metropolitan Board of Works; and in Boroughs or Urban Sanitary Districts in England and Wales, the Urban Sanitary Authority. See section 2 and the First Schedule to the Act.

[2] By an omission, there is no Third Schedule to this Act. An Act was therefore passed in the next session (43 Vict., c. 8) providing that the above section should be construed and read as if the words "in the form set forth in the Schedule hereto," had not been inserted therein.

and the appurtenances, if any, and also by a mortgage of the local[1] rate :

4. Any sum borrowed on mortgage under this section may be paid off by sale of the premises comprised in such mortgage, or by instalments, or otherwise, as may be agreed upon between the parties, so that the period of the borrowing do not exceed seven years :
5. The amount borrowed by any local authority on the mortgage of any buildings and sites, and of the local rate, must not exceed the estimated value of the proposed buildings, including the sites thereof, comprised in such mortgage, such value to be ascertained in manner approved by the commissioners :
6. The powers conferred by Act of Parliament on the commissioners in relation to loans will apply to any loans made under this section.

Repayment of outstanding loans.

It is the practice of the commissioners to decline to advance moneys for the repayment of outstanding loans.

Amounts advanced by the Commissioners.

Advances from 1873 to 1882.

The following are the amounts which have been advanced by the commissioners during the last ten years :—

1872—1873	560,937
1873—1874	2,071,848
1874—1875	2,320,359
1875—1876	3,321,911
1876—1877	3,249,622
1877—1878	4,303,524
1878—1879	3,073,293
1879—1880	3,576,431
1880—1881	2,162,550
1881—1882	1,832,299
Total ...	£26,475,774

Under which Acts greater part of amount lent.

By far the greater part of this amount was lent under the Education Acts, the Public Health Acts, and the Artizans'

[1] The local rate is, in the City of London and the liberties thereof, the consolidated rate ; in the remainder of the Metropolis, the rate to be levied in the Metropolis by the Vestry, District Board, or Metropolitan Board of Works respectively ; and in boroughs or Urban Sanitary Districts of England and Wales, the fund or rate out of which the general expenses of the execution of the Public Health Act, 1875, are defrayed by the Urban Sanitary Authority.

Dwellings Acts of England and Scotland, as will be seen from the following statement :—

Advances under—	Education Acts, England.	Education Act, Scotland.	Public Health Acts, England.	Public Health Act, Scotland.	Artizans' Dwellings Act, England.	Artizans' Dwellings Act, Scotland.
	£	£	£	£	£	£
1872-1873	293,758	.....	.....	.....	.....	.....
1873-1874	1,418,551	5,010	265,316	.....	.....	.....
1874-1875	1,339,640	336,534	460,979	.....	.....	.....
1875-1876	1,555,656	788,517	607,629	.....	.....	.....
1876-1877	1,814,629	441,477	772,276	100,390	.....	.....
1877-1878	1,795,707	380,919	837,591	205,684	925,000	.....
1878-1879	1,302,487	281,117	990,866	91,280	238,433	.....
1879-1880	1,095,491	134,538	1,559,343	110,409	251,546	115,000
1880-1881	639,455	128,858	1,100,294	94,571	.....	.....
1881-1882	581,444	54,999	735,774	105,931	105,000	50,000
Total ..	11,836,818	2,551,969	7,330,068	608,265	1,519,979	165,000

Making together a total of £24,012,099.

Restriction on amounts to be advanced to any one authority in the same year.

The amounts which the commissioners were called upon to advance under the Public Health Acts and Artizans' Dwellings Acts some years since became so large, mainly from the demands of a few of the larger corporations, that it was found necessary to restrict by section 3 of the Public Works Loans Act, 1879, the amount to be advanced by the commissioners in any one financial year to one borrower to £100,000. This restriction was not, however, made to apply to any loan granted before the passing of the Act, nor to any instalments subsequently advanced in respect of such loan, and where though a loan had not been actually granted before the passing of the Act, negotiations for it had proceeded so far as to make it, in the opinion of the Treasury, inequitable for such loan to be subject to the provisions of this Act, or any of them, it was provided (section 4) that such loan should, for the purpose of those provisions, be deemed to be a loan granted before the passing of this Act.

Notice to borrow formerly necessary.

All local authorities and persons proposing to borrow money from the commissioners were formerly required by section 13 of the Public Works Loans Act, 1875, to send to the commissioners on or before the 31st of December a statement of the amounts which they would probably require to borrow during the ensuing financial year, and the commissioners might not, without the consent of the Treasury, advance any loan which was not included in these statements, which were required to be furnished for the purpose of enabling the Treasury to lay before the House of Commons an estimate of the amount

required to be granted for the purpose of loans by the commissioners.

The statements thus sent in to the commissioners could not have been of much assistance in enabling this estimate to be prepared; for in order to make sure that they would not be refused any loans in the coming year it became the practice of the local authorities to give notice that they would require to borrow amounts very far in excess of their probable requirements, and a comparatively small proportion of the loans of which notice was thus given was actually taken up during the year. Section 13 of the Public Works Loans Act, 1875, has, therefore, been repealed by section 9 of the Public Works Loans Act, 1882; and it will no longer be necessary for any local authority or person to make the statements above referred to.

Terms on which advances are made by the Commissioners.

Rate of interest. Public Works Loans Act, 1875 (38 & 39 Vict., c. 89. s. 10).

By section 10 of the Public Works Loans Act, 1875, the interest on every loan granted by the commissioners under that Act, is required to be "not less than the rate authorized by a special Act relating to such loan, or if no rate be so authorized, not less than five per cent. per annum; the only[1] exception to these rules being the rate of interest at which the commissioners are empowered in certain cases to make advances to harbour authorities.

£5 per cent., except where special power is given to charge lower rate. Cases where power is given to charge a lower rate.

The effect of this section is that the commissioners cannot lend money at a lower rate than five per cent., in any case except those in which they are expressly authorized to do so by Act of Parliament. They are expressly authorized to lend money at a lower rate than five per cent. under the Education Acts, the Public Health Acts, the Artizans' Dwellings Acts, and the Harbours and Passing Tolls, &c., Act, 1861.[2] Under the Public

[1] By section 3 of the Harbours and Passing Tolls, &c., Act, 1861, the provisions of which will be found in Chapter IV., under the head "Harbour Authorities," the commissioners are empowered to lend money to harbour authorities at 3¼ per cent. when the aggregate amount of the principal moneys due to the commissioners from the harbour authority does not exceed £100,000; the interest payable on any excess over that amount being at such rate not exceeding 5 per cent., as the commissioners may determine. Under section 10 of the Public Works Loans Act, 1875, the interest payable on such excess may be at the rate of 3½ per cent.

[2] The commissioners are now prohibited by section 7 of the Public Works Loans Act, 1881, from charging a lower rate of interest than 5 per cent., notwithstanding anything in section 22 of the Public Works Loans Act, 1875, (the provisions of which will be found below), where either before or after the passing of that Act, they have taken possession of any mortgaged property, and after the passing of that Act, they advance any sum for the completion, repairs, improvement or security of that property.

Health Act, however, they invariably decline to lend money at a lower rate than five per cent., except for works which are, in their opinion, strictly conducive to the public health, *e.g.*, works of water supply, sewerage and sewage disposal, and the construction of hospitals; it being their view, in which the Treasury have concurred, that it was not the intention of the Legislature that they should advance money at a reduced rate of interest, for purposes of that Act other than sanitary purposes, in the ordinary acceptation of those words, as distinguished from the definition of the words "sanitary purposes" which is contained in the Act.

Cases in which commissioners decline to charge a lower rate under the Public Health Act.

By section 11 of the Public Works Loans Act, 1875, every loan granted by the commissioners under that Act, is required to be made repayable by instalments (in the form of an annuity or otherwise) within a period from the date of the actual advance of the loan, not exceeding the period authorized by a special Act relating to such loan, or if no period be so authorized, not exceeding twenty years.

How advances to be repayable (sec. 11).

Where no period authorized by special Act.

Where a loan has been granted repayable within a period less than the full period authorized by the foregoing provisions of this section, the commissioners, if the repayment of the loan with interest is in their opinion sufficiently secured by such security as is required by this Act, and if they think fit, may extend the period for the repayment of such loan to a period not exceeding the said full period from the date of the advance of such loan. Where no period is authorized by a special Act relating to the loan, the Treasury, on the recommendation of the commissioners, stating special circumstances, may either before or after the grant of the loan, extend the period within which the loan is to be repaid, to such period as may be recommended by the commissioners.

Power to extend period for repayment in certain cases.

The commissioners in considering whether the period for the repayment of a loan should or should not be the said full period, and the Treasury in considering whether the period should be extended as aforesaid, are to have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by such work.

Considerations which are to guide the commissioners and the Treasury in determining period for repayment.

The period of fifty years has been authorized for advances by the commissioners by the following special Acts, viz., the Education Act, the Public Health Acts, and the Artizans' and

Fifty years authorized under Education Acts, Public Health Acts, Artizans' and Labourers' Dwellings Improvement Acts, and Harbours and Passing Tolls, &c., Act, 1861.

Labourers' Dwellings Improvement Acts, and the Harbours and Passing Tolls, &c., Act, 1861. There are several other Acts, such as the Poor Law Acts, the Burial Acts, and others, which authorize the commissioners to lend money, and which prescribe periods for the repayment of all loans borrowed thereunder, but which do not name any period within which the commissioners loans, as distinguished from other loans raised thereunder are to be repaid. The commissioners, acting under the advice of the late law officers of the Crown, hold that in these cases they are precluded by the above-quoted section[1] from advancing money for a longer period than twenty years, unless the Treasury, on the recommendation of the commissioners, see fit to extend that period.

Period for advances under other Acts.

Advances not always made for full period of 50 years. under Elementary Education Acts.

The interpretation which the commissioners have placed upon the above-quoted section[1] as regards loans undert he Education Acts, is that they are under no obligation to lend for the full period of fifty years when that period is allowed by the Education Department, and that the sanctions and recommendations of that department do not relieve them from the responsibilities imposed on them by the section, of having regard to the durability of the work for which the loan is granted, and to the expediency of its cost being paid by the generation of persons who will immediately benefit therefrom. They accordingly decline to advance money to School Boards for the full period of fifty years for other purposes than the purchase of sites and the erection of new schools, and require loans advanced by them for other school purposes to be repaid within a shorter period than fifty years, except in cases of loans for the enlargement of schools, when such enlargement is equivalent to a new school, or is required to provide for increase of population, and the Education Department, after due consideration of all the circumstances of each case, and on its particular merits, recommend that the repayment should be spread over the full period of fifty years.

Only cases in which advances made under Education Acts for fifty years.

Power to reduce interest payable on loans under Sanitary Acts.

Section 243 of the Public Health Act, 1875, contains a proviso that in the case of a loan made before the passing of the Public Health Act, 1872, to any local authority under the Sanitary Acts, the commissioners may reduce the rate of interest payable thereon to not less than 3½ per. cent per annum. It would not, however, seem that they are accustomed to exercise

[1] *I.e.*, section 11 of the Public Works Loans Act, 1875.

this power, for on page 15 of their First Annual Report, they say that in cases of applications under the above enactment they have stated that it is not their practice to vary the terms of the securities upon which their loans have been advanced.

Practice of commissioners not to exercise this power.

Prior to the passing of the Public Works Loans Act, 1879, the rate of interest on advances by the commissioners to School Boards was fixed by the Education Acts (England and Scotland) at 3½ per cent. per annum, and the same rate was payable whether the period for repayment was the full term of fifty years, or any lesser term. Under the Harbours and Passing Tolls, &c., Act, 1861 (24 & 25 Vict., c. 47, s. 3), as amended by the Public Works Loans Act, 1875, the rate of interest was 3¼ per cent. where the aggregate amount of principal moneys due to the commissioners from the harbour authority, did not exceed £100,000, and 3½ per cent. on any excess over that amount.

Reduced rates of interest charged prior to passing of Public Works Loans Act, 1879 (42 & 43 Vict., c. 77).

Under the Public Health Acts, when the loans were advanced for works which were strictly conducive to the public health, and also under the Artizans' Dwellings Acts, the following rates of interest had been fixed by the Treasury, under the powers contained in those Acts, according to the number of years over which the repayment of the loan was to be spread, viz. :—

3½ per cent. for loans repayable in 30 years, or in any shorter period.

3¾ per cent. for loans repayable in more than 30, and not more than 40 years.

4 per cent. for loans repayable in 40 and not more than 50 years.

Section 2 of the Public Works Loans Act, 1879, has however, provided that where a loan is granted by the commissioners, "and the rate of interest for such loan fixed by the special Act which authorizes the Commissioners to grant the loan, is a special rate less than five per cent., such loan shall, notwithstanding anything in the special Act, bear interest at a rate not less than the rate in the special Act, and such other rate as may be necessary in the judgment of the Lord's Commissioners of Her Majesty's Treasury in order to enable the loan to be made without loss to the Exchequer."

Effect of section 2 of Public Works Loans Act, 1879.

Under this section, the Treasury, by a minute dated the 16th of August, 1879, have fixed the following rates for loans advanced by the commissioners at reduced rates of interest,

Rates fixed under this section.

under the Education, Public Health, and Artizans' Dwellings Acts; and also under the Harbours and Passing Tolls, &c., Act, 1861, viz. :—

3½ per cent. for loans repayable in 20 years, or in any shorter period.

3¾ per cent. for loans repayable in more than 20, but not more than 30 years.

4 per cent. for loans repayable in more than 30, but not more than 40 years.

4¼ per cent. for loans repayable in more than 40, but not more than 50 years.

Extent of change.

This alteration has increased the rate of interest on loans under the Public Health and Artizans' Dwellings Acts, by ¼ per cent. in cases where the loans are advanced for longer periods than 20 years; while on loans under the Education Acts, the increase is as large as ¾ per cent. when the period for repayment is 50 years, and for the first time the rate of interest on loans under the Education Acts is made to vary according to the term for repayment.

Inducement to borrow money for shorter periods.

This alteration has had a tendency to induce local authorities borrowing money from the commissioners, in order to obtain the benefit of the reduced rate of interest, to accept shorter periods for repayment than those for which they were entitled to borrow.

Method of repayment where loan is advanced for more than 30 years.

Another practice which has been adopted by the commissioners of late years, has operated in the same direction. They now make it a rule, in the absence of special circumstances, to require moneys advanced by them, to be repaid by equal annual instalments of principal in each year where the period for repayment exceeds 30 years; while they allow the repayment to be made by equal annual instalments of principal and interest combined, in cases where the borrower will consent to repay the loan in 30 years, although a longer period may be authorized for its repayment. The difference between these two modes of repayment has already been fully explained in pp. 44 to 46 of this work. The combined effect of this requirement of the commissioners, and of their rule of charging a rate of interest increasing in proportion to the length of the period taken for the repayment of their loans, is that school boards, sanitary authorities, and harbour authorities, are now called upon to pay less principal and interest during the first few years after borrowing from the commissioners, when the

Where loan is advanced for 30 years or a shorter period.

Effect of rules adopted by commissioner in these respects.

loan is advanced for 30, than when it is advanced for 50 years. In the former case, the money being borrowed for 30 years at $3\frac{3}{4}$ per cent., and being repayable by equal annual instalments of principal and interest combined, the annual payments for each of the 30 years is £5 12*s.* 2*d.* for every £100 borrowed. In the latter, the money being borrowed for 50 years at $4\frac{1}{4}$ per cent., and being repayable by equal annual instalments of principal, the payments in respect of every £100 for the first eight years are—£6 5*s.*, £6 3*s.* 4*d.*, £6 1*s.* 7*d.*, £5 19*s.* 11*d.*, £5 18*s.* 2*d.*, £5 16*s.* 6*d.*, £5 14*s.* 6*d.*, and £5 13*s.* 1*d.* respectively. As there is usually a natural desire on the part of local authorities that the earlier payments in respect of a loan should be as small as possible, it is not surprising to find that this consideration, coupled with the fact that if the money is borrowed on the above terms for 50 years, a portion of the loan will remain a charge on the rates for twenty years after the time, when it would otherwise have been paid off, has induced a large number of the authorities who have borrowed money from the commissioners during the last year or two, to agree to repay in 30 years, in cases where they have the power of borrowing for 50.

Local authorities elect to repay in shorter periods than formerly.

It would also appear that the action of the commissioners has had the effect of considerably diminishing the amount of the advances, which they have been called upon to make during the last two years. The fact that while the commissioners have been raising their rates of interest, the local authorities have been able to raise their loans in the open market at lower rates than formerly, has also probably contributed to this result.

And borrow less frequently from the commissioners.

Fees Payable by Borrowers.

The fees payable to the commissioners by borrowers are fixed by regulations made by the commissioners, with the approval of the Treasury, under section 41 of the Public Works Loans Act, 1875. The regulation now in force for this purpose was published in the *London Gazette* of the 27th of January, 1882, and is as follows:—

Regulation under section 41 of Public Works Loans Act, 1875.

"1. The fees or sums to be paid by the applicants pursuant to section 41 of the Public Works Loans Act, 1875, in respect of loans on rates, shall not exceed the following sums, viz.:

"On loans not exceeding £2,000, £1 1*s.* for every £100 of such loan.

Fees on loans secured on rates and not exceeding £2,000.

Not exceeding £25,000.

"On loans exceeding £2,000, and not exceeding £25,000, £21 *plus* 2*s.* 6*d.* for every £100, by which such loan exceeds the sum of £2,000.

Exceeding £25,000.

"On loans exceeding £25,000, £50.

Where loans advanced by instalments.

"Where a loan is advanced by instalments secured by one deed, there shall be paid in respect of each advance after the first, an additional fee of £1 1*s.* for every £100 of such advance, but not exceeding £3 3*s.*

"For the purpose of this regulation, the total amount to be advanced under one security deed shall be considered as a loan, and fractional parts of £100 shall be considered as £100.

In addition to fees, local authority to pay stamp duty, counsel's fees, &c.

"In addition to the above fees, the applicants shall pay the stamp duty, counsel's fees, and other disbursements incurred by the loan commissioners in respect of the several applications.

Where loan not secured on rates.

"In respect of all business, not being a loan on rates, the fees or sums payable shall be fixed by the commissioners, regard being had to each particular case.

Date when regulation came into force.

"The above regulation shall come into force on the 1st day of February, 1882, and as from such date the Regulation No. 7 of the regulations made by the Public Works Loan Commissioners, on the 1st day of April, 1876, shall be rescinded."

Securities for advances made by the Commissioners.

Public Works Loans Act, 1875. Commissioners to have regard to sufficiency of security (sec. 9).

Section 9 of the Public Works Loans Act, 1875, directs the commissioners, in considering the propriety of granting a loan, to have regard to the sufficiency of the security for its repayment, and section 12 of the same Act provides, that before advancing any money on account of a loan, they shall take security for the repayment of the loan with the interest, consisting of the

What security to be taken (sec. 12).

security authorized by the special Act relating to the loan, or if none is so authorized, of a mortgage of property or of a rate,[1] or of both property and rate, and (save as therein-after mentioned) of

[1] The definitions of "rate" and "property" are to be found in section 51 of this Act, which declares that the expression "rate" means a rate, cess, or assessment, the proceeds of which are applicable to public local purposes and leviable on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate, as before defined, and the making and levy of a rate includes the issue and enforcement of any such precept, certificate, or instrument as aforesaid, and expressions relating to the making and levy of a rate shall be construed accordingly, The same section provides that toll, due, rent, imposition, and other sum not being a rate as above defined is to be deemed to be property for the purposes of this Act.

personal security. The same section empowers the commissioners, if they think fit, to dispense with personal security in any case in which in their opinion the mortgaged property or rate is sufficient security for the payment of principal and interest of the loan within the stipulated period.

Power to dispense with personal security.

By section 35 of the same Act, where the commissioners grant a loan in aid of any work which is either partly completed or not commenced, they are empowered to take, by a bond to Her Majesty or otherwise, such security for the application of the loan to the work and for the due completion of the work (including the raising of sufficient funds for that purpose), as they may think sufficient for securing the interest of the public.

Security for application of the loan and completion of the work (sec. 35).

Section 20 of the same Act provides that all securities for any loan granted by the commissioners in pursuance of the Act may be given to the secretary of the commissioners on their behalf. Every such security is in the Act referred to as a security given to the commissioners.

Security to be given to secretary of commissioners (sec. 20).

Every security given under the Act may be in such form as may be prescribed, and the fact of the secretary of the commissioners being a party thereto is made conclusive evidence that the same is in the prescribed form,[1] and every such security will be valid and effectual to pass all the estate, right, and interest purported to be passed thereunder by the parties executing the same, subject to the provisions of the Act (section 32).

Form of security, &c., (sec. 32).

The commissioners may, subject to the prescribed regulations, if under the circumstances of the case they think fit, accept any security in lieu of any security previously given to them, or of any part of such security, and that subject to such terms and conditions as they direct, so, however, that the substituted security shall be of the character which the commissioners might take, if the loan were originally granted at the time of such substitution (section 38). No change of security under this section may extend the period for the repayment of the loan.

Power to substitute securities (sec. 38).

Change of security not to extend period for repayment.

The commissioners are authorized by section 39 of the Act to concur in any lease, conveyance,[2] or other disposition of any property mortgaged under the Act or any part thereof, and in the arrangements relative thereto upon such terms and conditions

Power to concur in disposition of property mortgaged (sec. 39).

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[1] *I.e.* prescribed by the regulations made under the Act with the approval of the Treasury. See section 51.

[2] The expression "conveyance" includes any grant, assignment, transfer, or other disposition or assurance; and the expression "convey" will be construed accordingly (sec. 51).

as they may think fit, and either with or without consideration, so that in their opinion the payment with interest on the loan charged on the mortgaged property is sufficiently secured, or is not thereby made less secure.

Every loan made by commissioners to be in accordance with, and under powers of this Act notwithstanding provisions in special Act (sec. 50).

Except so far as a special rate, by express reference to some part of the Public Works Loans Act, 1875, alters that part, every loan made by the commissioners must, notwithstanding any provision in such special Act and any rule of law or custom, be made in accordance with and under the powers of the Public Works Loans Act, 1875, and be repayable in the manner provided by that Act, and by the security for the same granted under that Act, and every such loan, together with the security for the same, will have the priority and be subject to the powers, authorities, and remedies mentioned in the Public Works Loans Act, 1875; and although made in pursuance of a special Act, will be deemed for all purposes to be a loan under the Public Works Loans Act, 1875. See section 50 of the Public Works Loans Act, 1875.

Property to vest in successive secretaries to the commissioners (sec. 7).

Where under any Act or any conveyance, obligation, or security, any real or personal property, or any estate or interest therein, or any chose in action has been or may be vested in, conveyed, made payable, or secured to the secretary of the commissioners for the time being as such secretary, and in respect of his office, all such real and personal property, estate and interest, and chose in action whatsoever, upon the death, removal, or resignation of any such secretary from time to time, and as often as the same happens and the appointment of a successor takes place, will (subject to the same trusts and equities, if any, as the same were before respectively subject to) vest in such succeeding secretary, by force of the Public Works Loans Act, 1875, and without any act or deed whatever to be done by the secretary dying, resigning, or removed, or by the heirs, executors, or administrators of such secretary, or by any person or persons claiming under him, them or any of them, and notwithstanding that the same may have been expressed to be vested in, conveyed, made payable to or secured to such secretary, his heirs, executors, administrators, and assigns, or any of them; and may be proceeded upon in the name of any succeeding secretary, by any action or suit in law or equity, or in any other manner as the same might have been proceeded upon by or in the name or names of such secretary dying, resigning, or removed.

Where the secretary of the commissioners is a party to any action, suit, or other legal proceeding, such secretary acting under the direction of the commissioners, will be deemed to represent the Crown, so far as regards the interest of the Crown in any loan granted under the Public Works Loans Act, 1875, or any money due under a security for any such loan, and it will not be necessary to make the Crown or any other person on behalf of the Crown, a party to such action, suit, or proceeding, in respect of such interest (section 7). Secretary to represent the Crown.

All conveyances, leases, mortgages, releases, arrangements, and things which the commissioners are authorized by the Public Works Loans Act, 1875, to grant, execute, make, or concur in, and all powers, acts, and things which the commissioners are authorized by that Act to exercise, do, or concur in, in relation to any mortgaged property or rate, may be granted, executed, made, concurred in, exercised, and done by their secretary for the time being under their direction, and when so granted, executed, made, concurred in, exercised, and done by such secretary, will be deemed to have been granted, executed, made, concurred in, exercised, and done by him under the direction of the commissioners, unless the contrary is shown by some persons interested in contesting the validity thereof. Powers of secretary (sec. 8).

Any property, chose in action, estate, interest, powers, authorities, and privileges vested in or exercisable by the secretary of the commissioners in pursuance of the Public Works Loans Act, 1875, must be dealt with and exercised by him under the direction of the commissioners and not otherwise (section 8).

Remedies for the Recovery of Loans advanced by the Commissioners.

The Public Works Loans Act, 1875, contains some very special provisions as to the recovery of loans advanced by the commissioners, the effect of which is to place the commissioners in a more favourable position than other persons advancing money to local authorities. These provisions will be found in the above Act under the head "Recovery of Loans." Section 18 of the Act, which contains the first of these provisions, deals with the cases where the loan is advanced on the security of property as distinguished from Special remedies for recovery possessed by commissioners

Where loan is granted on security of property (sec. 18).

rates.[1] It provides that where a loan is granted by the commissioners on the security of a mortgage of any property (whether with or without any other security), the property from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the commissioners and secured by a mortgage of the property executed to a person who is entitled as a *bonâ fide* creditor to the repayment thereof with interest. Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the commissioners and to the said charge thereof, and to the security for the same.

Priority of charge.

Nothing in any special Act, and no rule of law or custom will affect the priority given by this section, except so far as the special Act negatives such priority in terms expressly referring to this Act.

Where loan is granted on security of rates (sec. 19).

Section 19 deals with the cases where the loan is advanced on the security of rates as distinguished from property. It provides that where a loan is granted by the commissioners on the security of a mortgage of any rate (whether with or without any other security) such rate from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned.

Rate to be charged with payment of loan, with interest.

Where the loan has been granted to any borrower who appeared to the commissioners to have power to levy and mortgage such rate and has been expended upon the work in respect of which or in or for the benefit of the locality in which such rate or any part thereof is levied, the mortgage of the rate for securing the repayment of the loan with interest will be valid, and may be enforced in pursuance of this Act, notwithstanding any defect in the power or title of the borrower by whom the

Notwithstanding defects in power or title of borrower.

[1] For the definition of "rate" and "property," see the note on page 86.

mortgage purports to be granted; and in particular the commissioners may, although such borrower was not legally constituted or is dissolved, or is otherwise incapable and always was incapable of making, levying, or mortgaging such rate, have the same power of making and levying and enforcing the making or levying the said rate for the purpose of repaying such loan and interest, and all other sums due under the mortgage, as if such borrower had been duly constituted, and had had full power to make, levy, and mortgage such rate.

Powers of commissioners to make and levy rate, &c.

Where a mortgage of property has been given to secure any loan granted by the commissioners, and default is made in making payment according to the terms of such mortgage, then at any time after such default and without any consent on the part of any person interested in the equity of redemption of the mortgaged property, the commissioners, without prejudice to any other remedy, will have power to do all or any of the following things; namely,

Powers of commissioners on default of borrower (sec. 21).

(1.) Take possession of the mortgaged property, or any part thereof;

(2.) Grant any lease of the mortgaged property, or any part thereof, for such term and upon such reasonable conditions as they may think expedient, and that either for a premium or rent, or both; and

(3.) Sell or mortgage the mortgaged property, or any part thereof (section 21).

To take possession of, lease, sell, or mortgage the mortgaged property.

The commissioners, when authorized to take possession of any mortgaged property, may take possession either by themselves or by any person appointed by them (whether such person is interested in the mortgaged property or not), and upon possession of any mortgaged property being so taken,—

When possession is taken of mortgaged property (sec. 22).

(1.) All the estate, right, interest, powers, authorities, and privileges, of what nature or kind soever, which were at the time of the making of the mortgage or may for the time being be vested in or exercisable by the mortgagor or any person claiming through or under the mortgagor, either in relation to the property, or be necessary for carrying on and managing the same, will become vested in the secretary of the commissioners;

Estates, &c., to vest in secretary of commissioners

(2.) The commissioners may by themselves or any person appointed as aforesaid manage and carry on the property, and receive the revenue arising therefrom, or in any way receivable in respect thereof, or otherwise, in pursuance

Powers of management.

of the mortgage, and exercise all or any of the powers and authorities vested in their secretary by this Act;

Commissioners not liable for repairs or maintenance.

(3.) The commissioners or their secretary or such person as aforesaid will not be liable for the repairs or maintenance of the mortgaged property, but may apply any moneys received in respect thereof or raised from any rate towards such repairs or maintenance to such extent as the commissioners may think expedient;

Power to lend money for completion of repairs or improvements.

(4.) The commissioners may, with the consent of the Treasury, advance out of moneys at their disposal under this Act, sums for the completion, repair, improvement, or security of the mortgaged property, and every such sum will be deemed and be a loan secured on the property and repayable with the like interest[1] from the time of the advance, and by the like person, and will have the like priority and be recoverable in the like manner as if it were part of the original loan secured by the said mortgage;

Power to destroy property and sell materials in certain cases.

(5.) If the revenue received from or in respect of the property is insufficient to keep down the current expenses of working, maintaining, and repairing the same, together with the instalments of principal and the interest for the time being due on the mortgage, and no rate or no sufficient rate can be levied to meet the deficiency, the commissioners may, with the consent of the Treasury, destroy or cause to be destroyed, or (if they sell the same) authorize the purchaser with the like consent to destroy the same, and sell or authorize the purchaser to sell the materials thereof and other the articles, goods, and effects belonging thereto, and neither the commissioners, nor their secretary, nor the purchaser so authorized, nor his representatives will be liable in damages or otherwise to any person whomsoever for such destruction; and the provisions of this Act with respect to the sale of any mortgaged property will apply to any sale under this section;

Relinquishment of possession.

(6.) Possession under this Act may be relinquished at such time and in such manner and upon such terms and conditions as the commissioners think fit, and upon such relinquishment all powers, authorities, and privileges,

[1] The rate of interest on any money advanced under this power must not now be less than 5 per cent. See the note on page 80.

which on the taking of possession became vested in the secretary of the commissioners will, so far as they are not reserved, revert to and become vested in the person in whom the same would have been vested if possession had not been taken, but the commissioners may, if they think fit, on the relinquishment of possession, reserve any of the said powers, authorities, and privileges, with a view to the payment of any sum due to them.

(7.) Every such relinquishment of possession of any mortgaged property will be without prejudice to the power of again taking possession thereof under the provisions of this Act (section 22). Power to resume possession.

Where a loan made by the commissioners is secured by the mortgage of a rate (whether with or without any other security), and the commissioners might, if such loan were secured upon a mortgage of property, take possession of such property, the commissioners may, without prejudice to any other remedy, by notice in writing served at the office or last known place of address of the mortgagor, or where from any cause the same cannot be so served by notice in writing published in the prescribed manner, declare their intention to exercise the powers conferred by this Act, and thereupon the commissioners will have and may exercise the same power as the mortgagor of making and levying the rate mortgaged, and for that purpose the commissioners, or their secretary with their concurrence, may appoint an officer who, subject to the direction of the commissioners, will have and may exercise the same powers, authorities, and duties as if he had been appointed by the mortgagor. Power to make and levy rates (sec. 23).

The commissioners, in making an estimate of the rate to be levied for the purpose of paying any sum due, may add such sum as they think sufficient for defraying and may defray thereout all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by the commissioners in the execution of their powers under this section or otherwise by reason of the default in payment. All costs, charges, and expenses of commissioners to be paid thereout.

Any balance remaining in the hands of the commissioners must be paid by them to the mortgagor. Balance to be paid to mortgagor.

The commissioners may, by a like notice, declare their intention to relinquish the powers conferred by this section, and that either absolutely or with reservations and conditions, and thereupon all such powers will revest in the mortgagor, subject to the said reservations and conditions (section 23).

Liability to account restricted to moneys which actually come to the hands of commissioners and their agents (sec. 24).

When the commissioners have taken possession of any property under this Act, or exercised the powers conferred by Act in relation to any rate, neither they nor their secretary, nor any person appointed by them in that behalf, will be liable to account to any person interested in the equity of redemption in such property or rate for any moneys which, but for their wilful neglect or default, they or he might have received when so in possession or exercising such powers, or for any moneys other than those which have actually come to their or his hands (section 24).

Power of ale or mortgage (sec. 25).

Where the commissioners have power to sell or mortgage, they will have power to sell or mortgage either together or in parcels, by public auction or private contract, and subject to such conditions as to title or evidence of title or otherwise as the commissioners may think proper.

They may also buy in at any auction and rescind any contract for sale or mortgage, and resell or remortgage, without being responsible for any loss occasioned thereby.

Where a sale cannot be made in the ordinary way for a sum equal to the amount remaining due under the mortgage, the commissioners may, if they think fit, sell in such manner and subject to such conditions, stipulations, and agreements as they may think expedient for the purpose of ensuring the completion or carrying on of the work comprised in such mortgage by the purchaser thereof, with a view to the public good or general benefit, or for any other purpose, notwithstanding that such conditions, stipulations, and agreements may be prejudicial to the sale, or may not be beneficial to the persons interested in the equity of redemption in the property.

The commissioners may for the purpose of any sale or mortgage execute all such agreements, conveyances, and instruments as they may think fit (section 25).

Validity of sales and mortgages (sec. 26).

Every sale or mortgage made by the commissioners or their secretary, and purporting to be made in pursuance of this Act, will, so far as regards the interest of the purchaser and mortgagee, be deemed to be valid, and the purchaser or mortgagee will not be bound to see or enquire whether the sale or mortgage is authorized, nor in the case of a mortgage whether the money raised is required to be raised, nor as to the necessity or expediency of or authority for making the conditions, stipulations, or agreements, subject to which the sale or mortgage was made, nor otherwise as to the propriety or regularity of such sale or

mortgage, nor be affected by express notice as to any matters into which he is not bound to see or enquire.

Receipt to be full discharge.

The receipt in writing of the Bank of England, or one of their cashiers or other proper officer for the purpose of the Bank of England, or other prescribed receipt, will be a full discharge for the money paid on the sale or mortgage, and the person paying the same will not be bound to see to the application of such money, or be liable or in any manner accountable for the mis-application or non-application thereof (section 26).

Forms of lease, mortgage, &c., (sec. 27).

Effect of lease, mortgage, &c.

Any lease, mortgage, conveyance,[1] or other disposition made by the secretary of the commissioners under this Act, of any mortgaged property may be in the prescribed form, and will convey[1] to the person in whose favour such lease, mortgage, conveyance, or other disposition is made, and according to the terms thereof, all or any part of the estate, right, interest, powers, authorities, and privileges, which under the mortgage and this Act are vested in or capable of being exercised by the commissioners, or their secretary, either before or after possession taken, and the same will thereupon be vested in and may be exercised and put in force by such person accordingly.

Saving of rights of prior mortgages, &c.

Nothing in this Act will operate to invalidate or affect the rights of any person entitled *bonâ fide* to any debt, estate, or interest, having priority over or ranking *parri passu* with the loan granted by the commissioners, or the security for such loan, or the rights of any lessee under any lease made either prior to such security or with the concurrence of the commissioners (section 27).

Application of proceeds of mortgaged property (sec. 28).

Any money arising from the taking possession, lease, sale, mortgage, or other disposition under this Act by or under the direction of the commissioners of any mortgaged property, must be applied, first, in discharge of all costs, charges, and expenses incurred by or under the direction of the commissioners in respect thereof, or otherwise by reason of the default in payment, and secondly in discharge of the whole of the principal of the loan secured by the mortgage and for the time being unpaid (notwithstanding that the same or any instalment thereof may not have become actually due), and in discharge of all interest accrued due on such principal, and of all other sums (if any) due under the mortgage.

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[1] For the definition of "conveyance" and "convey" see the note on page 87.

The surplus (if any) of such money either must be paid to the mortgagor or other person or persons entitled thereto, or, if the commissioners think fit, must be paid by the secretary of the commissioners into the Court of Chancery, in England, in like manner as if he were a trustee of such money for the persons entitled thereto, and the Court may make such orders for the payment and distribution of such money to or among those persons as may from time to time seem to the Court just (section 28.)

Bankruptcy of mortgagor or surety (sec. 31).

Where an individual liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or insolvent, or enters into any composition or arrangement with his creditors, or has his affairs liquidated by arrangement, or takes the benefit of, or becomes subject to the provisions of any Act passed for the relief of persons in debt, or for enabling the property of such persons to be distributed among their creditors, or where any company liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or is wound up, the whole of such loan will become due immediately, notwithstanding that the date for the payment thereof or part thereof has not arrived, unless in the case of a surety the commissioners think fit to accept some other surety (section 31).

Recovery of sums payable under securities (sec. 33).

Every sum payable under any security made in pursuance of this Act must be made payable to the use of Her Majesty, her heirs and successors, and may be recovered as a specialty debt due to the Crown, in like manner as if the security had been made in the form provided by the Act of the thirty-third year of the reign of Henry the Eighth, chapter thirty-nine; but no person will be liable for any larger sum than that which he is expressed to be bound to pay.

Every sum payable in respect of a loan granted by the commissioners (either before or after the passing of this Act) or under the security for such loan, may be compounded for or released only under the authority of Parliament in each case.

The commissioners may issue a warrant to the proper officer forthwith to enforce payment of any such debt to the Crown as aforesaid, and if necessary to enter satisfaction therefor, and will have the control over any proceedings taken to enforce such debt, and such proceedings may not be discontinued, quashed, or abated without the written authority of the commissioners.

The Court of Exchequer, or other competent court, or any judge thereof, may, upon the production of the said warrant, direct an immediate writ of extent, or of *diem clausit extremum*, to issue without any writ of *scire facias* or any affidavit or other proof of the cause of the proceeding.

Nothing in this Act will render it the duty of the commissioners to issue such warrant or to register such writ or debt, unless they are of opinion that it is necessary for the purpose of securing the payment of the debt, or that otherwise under the particular circumstances it is expedient so to do (section 32).

Recovery of loan after expiration of term for repayment (sec. 34).

The expiration of the period within which a loan under this Act is made repayable (whether such period is the full period allowed by this or the special Act or a shorter period) will not in any way affect any power of the commissioners of recovering or enforcing payment of any sum due in respect of such loan.[1]

Application of Advances made by the Commissioners on the Security of Rates.

Public Works Loans Act, 1875 (sec. 36).

Where the commissioners advance any loan for any purpose[2] on the security of a rate,[3] section 36 of the Public Works Loans Act, 1875, has imposed on the Local Government Board the duty of satisfying themselves that the loan is applied to such purpose, and has enabled them to make from time to time such examination as they may think necessary, with a view to ascertain that such loan has been so applied. The Local Government Board may appoint any officer to conduct on their behalf any examination under this section, and any such officer will have the same powers to require the attendance of persons, and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as an inspector of the Local Government Board has under the Acts relating to the relief of the poor.[4]

Local Government Board to see to applications of advances.

Power to appoint officers.

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[1] With respect to the great importance of this enactment, see *Reg.* v. *Churchwardens of Wigan*, Appendix (6), and the cases cited at pages 21 and 22.

[2] Either in England, Scotland, Wales, or the Isle of Man. See section 3 of the Schedule to the Act.

[3] As to the definition of "rate," see above, page 90.

[4] These powers are contained in section 21 of the 10 & 11 Vict., c. 109, which is as follows: "The said inspectors may summon before them such persons as they may think necessary for the purpose of being examined before them upon any matter . . . . placed by law under the control or regulation of the commissioners (now the Local Government Board) or for the purpose of producing and verifying upon oath, any books, contracts,

Public Works Loans Act, 1878 (sec. 4).

Powers to make orders.

Where upon any examination made in pursuance of this section it appears to the Local Government Board that any sum, being the whole or part of the money raised by the loan, has not been applied to the purpose for which it was advanced by the commissioners, they are empowered by section 4 of the Public Works Loans Act, 1878, to order that sum to be within the time named in the order, applied either to the purpose for which it was advanced, or towards the repayment to the commissioners of the principal of the loan, or partly in one of such ways and partly in the other; and if it appears to them that the sum or any part thereof has been applied to some purpose other than that for which it was advanced, they may, by the same or by any other order, direct a sum equal to the amount so misapplied to be raised within the time and out of the fund or rate named on the order, and to be applied as directed by the order. Any order made by the Local Government Board under this section may be enforced by writ of *mandamus*.

Orders to be enforceable by *mandamus*.

Public Works Loans Act, 1881 (sec. 8). Expenses of examination.

The Local Government Board may also make orders as to the expenses incurred by them, or by any officer appointed by them, in making or conducting any examination in pursuance of section 36 of the Public Works Loans Act, 1875, and any such order may contain directions as to the parties by whom, and the rates out of which, such expenses shall be borne, and may, on the application of the board, be made a rule of the High Court of Justice in England, or of the High Court of Sessions in either division of the Under House thereof in Scotland. See section 8 of the Public Works Loans Act, 1881.

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agreements, accounts, writings or copies of the same in any way relating to such matters, and not relating to or involving any question of title to any lands, tenements, or hereditaments, not being the property of any parish or union, and may examine any person whom they shall so summon, or who shall voluntarily come before them to be examined upon any such matter upon oath, which each of the said inspectors shall be empowered to administer, or instead of administering an oath, the inspector may require the party examined to make and subscribe a declaration of the truth of the matter, respecting which he shall have been or shall be so examined; and all summonses made by any such inspector for any such purpose as aforesaid, shall be obeyed by all persons, as if such summons had been the summons and order of the commissioners (now the Local Government Board) and the non-observance thereof shall be punishable in like manner.

Provided always that no person shall be required in obedience to any such summons to go or travel more than ten miles from his place of abode." As regards the power of the Local Government Board to summon witnesses, and the penalties for giving false evidence, or refusing to give evidence, see sections 11 and 26 of this Act.

Application of unapplied balances (sec. 9).

Section 9 of the last-mentioned Act has also provided that the unapplied balance of any loan advanced by the commissioners, either before or after the passing of that Act, on the security of a rate, may, with the consent of the commissioners and of the central authority or department, if any, with whose sanction and consent such loan was authorized to be raised, be applied to any purpose to which moneys borrowed on the security of such rate are applicable; and in construing section 36 of the Public Works Loans Act, 1875, and section 4 of the Public Works Loans Act, 1878, the purpose to which any such unapplied balance is so applied is to be deemed to be the purpose for which that portion of the loan was advanced. This section will be found of great service to local authorities borrowing money of the commissioners, in cases where the works for which the loan was advanced are carried out at a less cost than the whole amount of the loan, or where, after obtaining the loan, it is found desirable to abandon a part of the works, and other works are required of such a character that the commissioners and the central authority, if any, who have sanctioned the loan, will assent to their being paid for out of the unapplied balance. Before this power was given, the authority would, in such a case, be required to repay the unapplied balance to the commissioners, even though it might be necessary to reborrow it from them immediately for the other works.

Usefulness of this section.

Public Works Loans Act, 1882.

Difficulties having been sometimes experienced in tracing the manner in which advances made by the commissioners were applied by local authorities when the advance was paid into the same account at the bank with other moneys belonging to the authority, section 8 of the Public Works Loans Act, 1882, has now provided that where, after the passing of that Act (*i.e.* after the 18th of August, 1882), any money is advanced by the commissioners on the security of a rate, as defined by the Public Works Loans Act, 1875, the borrowers shall cause their treasurer to keep a separate account under the title of the Public Works Loan Commissioners Loan Account, or such other title as may be approved by the Local Government Board, and shall cause all such advances to be carried to the credit of that account; and all orders or other documents directing payments out of such account must show on the face of them, that payment is to be made out of that account; and an order or other document for a payment out of this account must not be made or given except the payment is for a purpose

Advances to be carried to a separate account.

for which such advance was made. These provisions will probably greatly facilitate examinations by the Local Government Board under the above Acts, and, if properly attended to, prevent any unintentional misapplication of the advances by the local authorities receiving them.

CHAPTER IV.

BORROWING POWERS OF LOCAL AUTHORITIES UNDER THE GENERAL LAW.

Local Authorities empowered to Borrow.

Local authorities possessing powers of borrowing under general law.

The chief local authorities which are authorized to borrow money under the general law are metropolitan authorities (including the Metropolitan Board of Works, the Corporation of London, and the Commissioners of Sewers of the City of London, Metropolitan Vestries and District Boards, the Managers of the Metropolitan Asylum District, and the Managers of Sick Asylum Districts),[1] County Authorities, Municipal Corporations, Urban and Rural Sanitary Authorities, Joint Boards, and Port Sanitary Authorities, Boards of Guardians, Managers of District Schools, Harbour Authorities, Commissioners of Sewers constituted under the Land Drainage Act, 1861, Highway Boards, Burial Boards, and School Boards. In the following pages an attempt is made to give, as briefly as possible, some account of the powers of borrowing possessed by each of these authorities under Public Acts of Parliament, with references in each case to the statutory provisions, by which these powers are conferred and regulated.

METROPOLITAN AUTHORITIES.

1.—*The Metropolitan Board of Works.*

Metropolitan Board of Works (Loans) Act, 1869 (32 & 33 Vict., c. 102.)

Section 3 of the Metropolitan Board of Works (Loans) Act,[2] 1869, provides that after the passing of that Act, the Metropolitan Board of Works shall not (except for such temporary period not exceeding six months as the Treasury may from time to time sanction) raise otherwise than in conformity with that Act, and with the sanction of the Treasury, any money under

Restriction on exercise of borrowing powers by the Metropolitan Board of Works (Sec. 3).

[1] For the borrowing powers of Boards of Guardians in the Metropolis, and the London School Board, see under "Boards of Guardians," and "School Boards."

[2] The provisions of this Act are set out in full in Appendix (2).

any powers of borrowing, whether conferred by the Acts[1] mentioned in the first Schedule to the Act, or otherwise howsoever.

Creation of consolidated stock and terminable annuities (Secs. 4, 32, and 46).

By this Act the Metropolitan Board of Works were authorized to convert the whole of their then existing loans, amounting to about £8,000,000 into consolidated stock, and were required to raise the whole of their future loans either by the creation of such stock, or by the issue of annuities terminable after such number of years as might be approved by the Treasury. The stock thus created was required to be called the Metropolitan Consolidated Stock, and to be issued in such amounts and manner, at such price and times, on such terms and subject to such conditions, with such dividends, and redeemable (at the option of the Board) at par at such times and on such conditions as the Treasury, before the creation thereof, might from time to time approve. Provision was required to be made by the board for the redemption of the stock at the latest within sixty years from the date of its creation, and a consolidated loans fund was required to be created for the purpose of paying the dividends on and redeeming the stock. The board were also empowered in lieu of the several rates before levied by them to levy a consolidated rate for the purpose of paying the dividends on and redeeming the stock,[2] and defraying their other expenses. The borrowing powers of the board under this Act were limited to £10,000,000,[3] exclusive of the amounts, which they might borrow under the Act for the purpose of a loan to the managers of the metropolitan asylum district. The amount authorized by the Act to be borrowed for this purpose was not to exceed £500,000.[3] An annual return was required by the Act to be prepared by the board, and laid before Parliament, showing the amount of consolidated stock. the application of the money raised by such stock, the sums carried to and the application of the consolidated loans fund, and such other particulars respecting their loan transactions, and such estimate of the expenditure of the board for all purposes of the ensuing year, as the Treasury might from time to time require.

Redemption of stock in 60 years (sec. 27).

Levy of consolidated rate (sec. 22.)

Limit of borrowing powers under Act (sec. 38).

Loans by board to managers of metropolitan asylum districts (sec. 37).

Annual return to be laid before Parliament

[1] These Acts are the Acts which, at the passing of this Act, conferred powers of borrowing on the Metropolitan Board of Works.

[2] For further information as to this stock, see the Act itself, which is set out in Appendix (2), and the Sixth Chapter of this work on "Local Stock," under the head "Metropolitan Consolidated Stock."

[3] These amounts have been extended from time to time by the subsequent Loans and Money Acts of the Metropolitan Board of Works.

The above Act has from time to time been amended by subsequent Loans Acts of the Metropolitan Board of Works. The first of these was the Metropolitan Board of Works (Loans) Act, 1870, which relates principally to the composition for stamp duty to be paid by the board in respect of transfers of their consolidated stock and of their terminable annuities. The composition thus payable was made by this Act seven shillings and sixpence for every £100 or fractional part of £100 of stock, and for every £100 [1] or fractional part of £100 of the annuity, the value of the annuity being required to be computed in such manner as the Treasury from time to time might direct. All sums paid under this Act by way of composition were required to be paid out of money raised or to be raised by the issue of consolidated stock, or the granting of annuities, and are to be recoverable as stamp duties.

Metropolitan Board of Works (Loans) Act, 1870 (33 & 34 Vict., c. 24).

Composition for stamp duty (secs. 3 and 4).

How composition to be paid and recovered (sec. 6)

In the following year, the Metropolitan Board of Works (Loans) Act, 1871, was passed. Section 9 of this Act provides that all consolidated stock created before or after the passing of this Act for any of the purposes of section 34 of the principal Act (*i.e.* the Act of 1869) shall, notwithstanding anything in the principal Act or this Act, be purchased or redeemed and cancelled within sixty years from the time of the first creation by the board of any consolidated [2] stock. Section 10 of the same Act provided that any sum borrowed under the Metropolis Management Act, 1855, and the Acts amending the same, by a vestry or district board, for the purposes of any work which such vestry or district board were about to execute or to which they were about to contribute under those Acts, which appeared to the Board of Works and to the Treasury to be a permanent work, might, with the consent of the Treasury, and on such terms

Metropolitan Board of Works (Loans) Act, 1871 (34 & 35 Vict., c. 47).

Repayment of existing debt within sixty years (sec. 9.)

Loans by Board of Works to vestries and district boards (sec. 10).

[1] But now see section 54 of the Inland Revenue Act, 1880 (43 & 44 Vict., c. 20), which provides that the sum to be paid by way of composition for stamp duty under sections 3 and 4 of the Metropolitan Board of Works (Loans) Act, 1870, on transfers of Metropolitan consolidated stock and Metropolitan annuities from time to time issued or granted after the passing of the Act (*i.e.* after the 12th of August, 1880), shall be calculated as if the rates enacted by this Act for the composition of the duty on transfers of stock created and issued by the council of any municipal borough were substituted for the rate or sum of seven shillings and sixpence in the said sections respectively. The rates so enacted are given in section 53 of the Act, which is set out in the note to section 6 of the Local Loans Act, 1875, Appendix (3). They amount, in the case of Metropolitan consolidated stock, to one shilling and three pence for every sum of £10 or fraction of £10, *i.e.*, twelve shillings and sixpence for every £100 of stock.

[2] As to the terms of redemption on which the stock has been issued by the Board of Works, see Chapter VI.

and conditions as the Treasury from time to time might think fit, be borrowed from and lent by the Board of Works, and the Board of Works were authorized to create such additional stock as might be required for this purpose.[1] Section 13 of this Act contains a very important power authorizing any trustee, executor, or other person empowered to invest money in public stocks and funds or other Government securities, unless forbidden by the will or other instrument under which he acts, whether prior in date to this Act or not, to invest the same in consolidated stock.

Power to trustees to take stock (sec. 13).

Metropolitan Board of Works (Loans) Act, 1875 (38 & 39 Vict., c. 65).

The next loans Act of the Board of Works is the Metropolitan Board of Works (Loans) Act, 1875, which enabled the Board of Works to borrow further moneys by the creation of stock for various purposes, including general improvements, plant[2] for their fire brigade, loans to Metropolitan Vestries and District Boards, Metropolitan Boards of Guardians, and other public bodies. As several of the provisions of this Act have formed the precedents which have been followed in the subsequent money Acts of the Board of Works, the majority of them are set out below.

Loans to Vestries, District Boards, Boards of Guardians, Corporations, &c.

Power to lend to vestries and district boards (sec. 4).

Section 4 of the Act provides that after the passing of the Act no money shall be lent by the Board of Works to a vestry or district board under section 10 of the Metropolitan Board of Works Loans Act, 1871, and in substitution of the provisions of that section, it enacts that when a vestry or district board constituted under the Metropolis Management Act, 1855, desire, in pursuance of authority vested in them by Act of Parliament, to borrow money for the purpose of any work, or for the purpose of paying off any loan or debt, or for any other purpose, and it appears to the board and to the Treasury expedient that the repayment of the money to be borrowed shall be spread over a series of years, then from time to time up to the 31st day of December, 1876, the board may lend to the vestry or district board, and the vestry or district board may borrow from the board, such money as the board think fit, and as the vestry or district board are authorized and desire to borrow. The

[1] This section is now superseded. See section 4 of the Metropolitan Board of Works (Loans) Act, 1875, below.

[2] The board are required by section 3 of this Act to carry to the consolidated loans fund such sums as the Treasury approve as being in their opinion sufficient to redeem within thirty years from the date of the creation of stock for this purpose, an amount of consolidated stock equal to that so created.

aggregate amount lent by the board under this section is not to exceed £100,000, and the board, in order to raise money for the purposes of this section, are empowered from time to time to create consolidated stock. Money lent by the board under this section is, notwithstanding anything in any other Act, to be repaid to them, with interest, within such time after the borrowing as the board and the borrowers, with the approval of the Treasury, agree, not exceeding, in the case of a loan for purposes of improvements effected by the widening of streets or bridges, or for the purpose of purchase of land in fee simple, sixty years, and for any other purpose, thirty years. In case of a loan required to be for not exceeding thirty years, the board are directed by the section to carry from time to time to the consolidated loans fund such sums as the Treasury approve as being in their opinion sufficient to redeem within the period for which the loan is made, not exceeding thirty years from the date of the creation of stock for purposes of this section, an amount of consolidated stock equal to that so created.

Power to lend to Metropolitan Boards of Guardians (sec. 5).

Similar powers are given by sections 5 and 6 of the Act to the Board of Works to borrow £100,000 for the purpose of loans to Boards of Guardians of unions[1] or parishes, wholly or for the greater part in the Metropolis, as defined by the Metropolis Management Act, 1855, and £50,000 for the purpose of loans to any Corporation, Body of Commissioners, Burial Board, or other public body, having power to levy directly or indirectly, rates in respect of lands in the Metropolis, as defined by the Metropolis Management Act, 1855, or to make charges on rates leviable in the Metropolis, as so defined, or to take within the Metropolis, as so defined, dues or impositions in the nature of rates. The periods for which the board may advance loans to Boards of Guardians under these provisions are not to exceed thirty years. Those, for which the other loans above referred to may be advanced are not to exceed sixty years, when the loan is required for the purpose of improvements effected by the widening of streets or bridges, or for the purpose of purchase of land in fee simple; or thirty years, when the loan is required for any other purpose.

And other public bodies (sec. 6).

Repayments to go to consolidated fund (sec. 10).

All sums received by the board in respect of interest on or the principal of any loan made by them under this Act are required to be carried to the consolidated loans fund.

[1] For a list of these unions and parishes, see below, page 116.

Power to require returns from bodies borrowing (sec. 14).

Where application for a loan is made to the board by any body, to which the board are authorized by this or any other Act to lend money, the board are empowered by section 14 of this Act, as a condition precedent to the making of the loan, and to the payment from time to time of any money as part thereof, to require that body to frame and deliver to the board from time to time returns, giving, in relation to the parish, district, union, or place, in respect whereof the loan is applied for, such information respecting the financial condition of the body applying as the board think expedient.

Power of board to expend for incidental charges on consolidated stock (sec. 8).

The board are empowered by section 8 of this Act to expend from time to time for composition for stamp duty, charges payable to the Bank of England, costs of advertising, brokers' commission, and other expenses incidental to the raising of money by consolidated stock, such amount as they require for that purpose, and the Treasury approve; and in order to raise the same they are authorized from time to time to create consolidated stock.

Annual returns to be laid before Parliament respecting money raised and valuation, liabilities, &c. of parishes and other districts (sec. 13).

By section 13 of this Act, the board are required every year to frame and deliver to the Treasury returns, showing—1. All money raised by the board under this or any further Act for purposes mentioned in this Act. 2. In relation to every parish, district, union, or place in respect whereof a loan is obtained from the board under this Act, or any further Act; (1.) The annual rateable value of the property therein. (2.) As nearly as may be, the actual indebtedness to each parish, district, union, or place in respect of loans previously contracted. And the Treasury are required to cause every such return to be laid before both Houses of Parliament.

Borrowing powers increased by subsequent Loans Acts.

The amounts, which may be borrowed by the Board of Works for each of the above purposes have been increased by subsequent Loans and Money Acts, which have contained similar regulations to those in the Act of 1875, and have also authorized the borrowing by the board of large sums for purposes of the Metropolitan Street Improvement Acts, 1872 and 1879; the Metropolitan Commons Supplemental Act, 1873; the Artizans' and Labourers' Dwellings Improvement Act, 1875; the Metropolis Toll Bridges Act, 1877; the Metropolitan Board of Works (various powers) Act, 1875 and 1876; the Metropolitan Board of Works (Plumstead Common, &c.) Act, 1878; the Metropolis Management (Thames River Prevention of Floods) Act, 1879; and other Acts, besides authorizing the borrowing

of money by the board for the purposes of loans to the London School Board.

Metropolitan Board of Works (Money) Act, 1877 (40 & 41 Vict., c. 52). Power to raise money by bills (sec. 15).

By section 15 of the Metropolitan Board of Works (Money) Act, 1877, the Board of Works are empowered, with the consent of the Treasury, notwithstanding anything in that Act, or in any other Act relating to the board, to raise from time to time, as they think fit, any part of the moneys which they are authorized by that Act to raise, not exceeding £4,622,007 by the issue of bills under that Act. The provisions with respect to these bills are as follow:—

Term and length of currency and interest on Metropolitan bills (sec. 16).

"A bill under this Act (in this Act referred to as a 'Metropolitan bill') shall be a bill in form prescribed by a regulation made in pursuance of this Act for the payment of the principal sums named therein in the manner, and at the date therein mentioned, so that the date be not less than three nor more than twelve months from the date of the bill. Interest shall be payable in respect of a Metropolitan bill at such rate, and in such manner as the board, with the consent of the Treasury, may direct.

Payment of proceeds of Metropolitan bills and charge of bills on consolidated rate (sec. 17).

"All moneys raised by the issue of any Metropolitan bills shall be paid to the board, and shall be expended by them for the purposes for which the same are by this Act authorized to be raised respectively. The principal money, and interest expressed in any Metropolitan bill to be payable, shall be charged on the consolidated rate, and shall be payable out of the said rate, or as regards principal, out of moneys raised by the creation of consolidated stock under this Act for the purpose for which such principal money has been expended, and as regards interest out of the consolidated loans fund.

Mode of issue of Metropolitan bills (sec. 18).

"With respect to the issue of Metropolitan bills, the following provisions shall have effect:—

"(1.) Metropolitan bills shall be issued under the authority of a warrant sealed by the board, and countersigned on behalf of the Treasury.

"(2.) Each Metropolitan bill shall be for the amount directed by the board.

"(3.) Each Metropolitan bill shall be sealed by the board, the sealing being attested by the clerk in his own name.

Regulations to be made by the board as to the issue, cancellation, &c., of Metropolitan bills (sec. 19).

"The board may, from time to time, with the consent of the Treasury, make, and when made, rescind, alter, and add to, regulations for carrying into effect the provisions of this Act with respect to Metropolitan bills, and in particular—

"(1.) For regulating (subject to the provisions of this Act) the preparation, form, mode of issue, mode of payment, and cancellation of Metropolitan bills:

"(2.) For regulating the issue of a new Metropolitan bill in lieu of one defaced, lost, or destroyed:

"(3.) For preventing, by the use of counterfoils, or of a special description of paper or otherwise, fraud, in relation to Metropolitan bills:

"(4.) For the proper discharge to be given upon the payment of a Metropolitan bill:

"Every regulation purporting to be made in pursuance of this Act shall be deemed to be within the powers of this Act, and shall have effect as if it were enacted in this Act.

Power to create consolidated stock partially suspended while Metropolitan bills authorized to be raised (sec. 20).

"For the purpose of paying off the principal money of any Metropolitan bills, the board may raise any sum which they are by this Act empowered to raise by the creation of consolidated stock for the purposes for which such principal money has been expended, not exceeding the amount of such principal money; but save as aforesaid, the powers given to the board by this Act, to raise money for any purposes by the creation of consolidated stock shall be suspended to the amounts and for the periods to and for which moneys are for the time being authorized by the Treasury to be raised for such purposes respectively by the issue of Metropolitan bills.

Application to Metropolitan bills of 24 & 25 Vict., c. 98, ss. 8-11, relating to forgery and other frauds (sec. 21).

"Sections eight, nine, ten, and eleven of the Act of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, intituled 'an Act to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery' (which sections relate to the forgery of and other frauds relating to Exchequer bills), shall apply to the Metropolitan bills, and shall have effect as if 'Exchequer bill,' in those sections included 'Metropolitan bill.'

Arrangement with bank as to Metropolitan bills (sec. 22).

"The board may enter into such arrangements with any bank approved by the Treasury, for carrying into effect the provisions of this Act with respect to the issue of Metropolitan bills, and to the payment of the principal sum named therein, and to all matters relating thereto, and for the proper remuneration of such bank with reference thereto, as they may think proper, and as may be approved by the Treasury."

Application of provisions to sec. 3 of the Metropolitan Board of Works (Loans) Act, 1869 (sec. 25).

Section 25 of this Act declares that the provisions of section 3 of the Metropolitan Board of Works (Loans) Act, 1869, shall extend and apply to and shall authorize the raising in manner therein mentioned of any money by the board, with the sanction of the Treasury, under any powers of borrowing.

Similar provisions to those contained in the above quoted sections of the Metropolitan Board of Works (Money) Act, 1877, are contained in subsequent money Acts of the board.

Metropolitan Board of Works (Money) Act, 1881 (44 & 45 Vict., c. 48).

The only remaining provision in the money Acts of the board to which it seems necessary here to draw attention, is that contained in section 20 of the Metropolitan Board of Works (Money) Act, 1881, which is to the effect that where the board are authorized by that Act, or the Metropolitan Board of Works (Money) Act, 1880, to make a loan to any of the local authorities to whom they may lend money, and are empowered in order to raise money for any such loan, to create consolidated stock, and the loan is repayable within thirty years from the date of the loan, the board, instead of raising money for any such loan by the creation of consolidated stock, may use for any such loan any moneys for the time being forming part of the consolidated loans fund, and not required for the payment of the dividends on the consolidated stock.[1]

Power to board to apply consolidated loans fund to make loans to local authorities, &c., in the Metropolis (sec. 20).

As the borrowing powers of the Metropolitan Board of Works can only be exercised in pursuance of the powers given by their several money Acts,[2] the more important provisions of which have been above described, it seems unnecessary in the present work to give details as to the several Acts by which the board are empowered to carry out the various works, in the execution of which the bulk of the moneys which they borrow are expended.

[1] For some account of the object of this enactment, see the quotation from the last Report of the Metropolitan Board of Works in Chapter VI., under the head "Metropolitan Consolidated Stock." See also page 68 of the present work.

[2] See, *e.g.*, section 28 of the Metropolitan Board of Works (Money) Act, 1882 (45 & 46 Vict., c. 33), which provides that during the year ending the 31st of December, 1883, the board shall not (except for such temporary period not exceeding six months as the Treasury may from time to time sanction) raise otherwise than in conformity with and to the extent mentioned in that Act, any money under any powers of borrowing conferred upon the board either by this Act or any other Act whatsoever. Provided always, that the limitations contained in this section shall not extend to limit or control the raising of moneys under the authority of section 34 of the Metropolitan Board of Works (Loans) Act, 1869, or of section 8 of the Metropolitan Board of Works (Loans) Act, 1875, for the purposes in the said sections respectively mentioned. Similar provisions have been inserted in the annual money Acts of the Board of Works for some years past.

2.—*The Corporation of London and the Commissioners*[1] *of Sewers of the City of London.*

Borrowing powers under local Acts.

The more important borrowing powers possessed by the Corporation of London and the Commissioners of Sewers for the City of London are contained in the numerous local Acts affecting these bodies respectively in their several capacities.

Borrowing powers under public Acts.

In addition to these powers, they possess the following powers of borrowing in their capacities of local authority under the Burial Acts, the Artizans' Dwellings Acts, 1868 to 1882, the Tramways Act, 1870, the Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1882, the Explosives Act, 1875, and the Contagious Diseases (Animals) Act, 1878.

The Burial Acts.

The Burial Act, 1852 (15 and 16 Vict., c. 85).

Commissioners of Sewers to be a Burial Board for the parishes in the city and its liberties (sec. 43).

By section 43 of the Burial Act, 1852, the mayor, aldermen, and commons of the City of London in common council assembled are empowered, if and when they see fit, to authorize and direct the Commissioners of Sewers of the City of London to exercise for the said city, and the liberties thereof all the powers and authorities vested in Burial Boards under[2] this Act; and thereupon such commissioners are to have and exercise for and on behalf of the said city and liberties, all such powers and authorities as are by this Act vested in the Burial Board for any parish, or which might be exercised by such board with the approval of the vestry; but the expenses to be incurred by such commissioners in providing and laying out any burial ground or burial grounds under this Act, and building the necessary chapels thereon, are not to exceed such sums as the said mayor, aldermen, and burgesses, in common council assembled, may authorize to be expended for that purpose; and the money required for defraying the expenses incurred under this Act by the said commissioners is to be charged upon and

[1] The Commissioners of Sewers of the City of London are appointed by the mayor, aldermen and commons of the City of London under the City of London Sewers Act, 1848 (11 & 12 Vict., c. clxiii), as continued and amended by the City of London Sewers Act, 1851 (14 & 15 Vict., c. xci.). Section 7 of the former Act empowers the mayor, aldermen, and commons, from time to time, when and as often as they shall think fit so to do, to nominate, and by deed under their common seal, to appoint, such persons as they shall think proper to be commissioners. In the Electric Lighting Act, 1882, the local authority for the city is described as being the mayor, commonalty, and citizens acting by the commissioners of sewers. The commissioners are empowered by the City of London Sewers Act, 1848, to levy a sewers rate and a consolidated rate.

[2] The powers of borrowing possessed by Burial Boards under this Act are contained in sections 20 and 21, which will be found below under the head of "Burial Boards."

payable out of the consolidated rate authorized to be made by the City of London Sewers Act, 1848, or any moneys applicable for defraying the expenses by the said Act charged upon or payable out of such rate.

20 & 21 Vict., c. 35.

The 20 & 21 Vict., c. 35, after reciting that the commissioners of sewers had been authorized by the corporation of London to exercise the powers and authorities vested in burial boards under the Burial Act, 1852; and that there were more than a hundred parishes within the City of London and the liberties thereof, and that it had been found impracticable to obtain the requisite consents of all the vestries of such parishes to the uniform exercise of such powers and authorities by the commissioners, provided (section 2) that when and as often as the consent or approval of the vestries of the several parishes within the said city and liberties was by the Burial Act, 1852, required for the purpose of enabling the Commissioners of Sewers to exercise any power or authority given to or vested in them by the said Act, or to execute any act, deed, matter or thing, made or done, or agreed or proposed to be made or done by the said commissioners, then, and in every case, the consent or approval of the major part in number of the vestries of the several parishes within the said city and liberties, should be sufficient to enable the said commissioners to exercise any such power or authority, or to do or execute any such act, deed, matter, or thing as aforesaid, and to confirm and render valid any act, deed, matter, or thing made or done, or agreed, or proposed to be made or done by them, and should be as valid and effectual for the purposes of the said Act, as if all the vestries of the said parishes within the City of London and the liberties thereof had actually consented to or approved thereof, or had confirmed the same. Provided that the parishes united under the provisions of the Act of the twenty-second year of Charles Second, chapter eleven, or united for ecclesiastical purposes by the provisions of that, or any other Act or Acts, should, for the purpose of this Act, and the Burial Act, 1852, be and be deemed one parish.

Approval of a majority of vestries in the City of London to be sufficient (sec. 2).

Artizans' Dwellings Acts, 1868 to 1882.

The Commissioners of Sewers are the local authority in the City of London for the purposes of the Artizans' Dwellings Acts, 1868 to 1882; and the local rate out of which their expenses under those Acts are to be defrayed is the consolidated rate. See section 2 of and the First Schedule to the Artizans' and Labourers' Dwellings Act (1868) Amendment Act,

1879 (42 & 43 Vict., c. 64). By section 22 of this Act, the Public Works Loan Commissioners may, if they think fit, lend to any local authority, and any local authority may borrow from the commissioners, such sums as the authority may require for the purposes of that Act, subject to certain regulations, which will be found set out in pages 77 and 78. The period for the repayment of money so borrowed from the commissioners may not exceed seven years. This Act is to be construed as one with the Artizans' and Labourers' Dwellings Act, 1868 (31 & 32 Vict., c. 130), and the Artizans' Dwellings Act, 1882 (45 & 46 Vict., c. 54).

Power to borrow from Public Works Loan Commissioners.

The Tramways Act, 1870 (33 & 34 Vict., c. 78.)

Local authority for purposes of the Act (sec. 3 and Schedule (A.))

The mayor, aldermen, and commons of the City of London are the local authority for the purposes of the Tramways Act, 1870. See section 3 of and Schedule (A) to that Act. And in this capacity they may obtain provisional orders from the Board of Trade authorizing the construction of tramways.

Power to obtain provisional orders (sec. 4).

Powers to borrow for purposes of such orders (sec. 20).

For the purpose of any such provisional order, the local authority under the Act is empowered by section 20 of the Act to borrow and take up at interest, on the credit of the local rate (in this case the consolidated sewers rate) any sums of money necessary for defraying the expenses incurred by them in applying for and obtaining such order, and carrying its purposes into effect; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the local authority may mortgage the local rate to the persons by or on behalf of whom such sums are advanced; but the exercise of the above mentioned power is subject to the following regulations:—

Regulations as to borrowing.

(1.) The money so borrowed must not exceed such sum as may be sanctioned by the Board of Trade.

(2. The money may be borrowed for such time, not exceeding thirty years, as the local authority, with the sanction of the Board of Trade, may determine; and, subject as aforesaid to the repayment within thirty years, the local authority may either pay off the moneys so borrowed by equal annual instalments, or they may in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of exchequer bills or other Government securities, such sum as will be sufficient to pay off the moneys so borrowed, or a part thereof, at such times as the local authority may determine.

The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, will apply to any mortgage executed under the foregoing provisions of this section, and for the purposes of such application, such provisions are incorporated with this Act.[1]

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages.

For the purposes of such incorporation, the terms "the special Act" and "the commissioners" will be construed to mean respectively a provisional order under this Act, and the local authority.

The local authority are required to keep separate accounts of all moneys paid by them in applying for, obtaining, and carrying into effect, any such provisional order, and in the repayment of moneys borrowed, and of all moneys received by them by way of rent or tolls in respect of the tramway authorized thereby.

Separate accounts to be kept.

The Commissioners of Sewers are made the local authority in the City of London for the purposes of the Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1882. By sections 2 and 21 of the former Act, the expenditure of the local authority in respect of any transactions under that Act is required to be met out of a fund, any deficiency in which, from time to time, is to be supplied out of the local rates or out of moneys to be borrowed in pursuance of this Act. The local rates, in the case of the Commissioners of Sewers, mean the sewer rate and the consolidated rate, leviable by such commissioners or either of such rates.

Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1882.

By section 22 of this Act, any local authority under the Act is empowered, for the purposes of the Act, to borrow any moneys on the security of any lands, houses, or other property acquired by them under the Act, and to mortgage such lands, houses, or other property to any person advancing such moneys; and it will not be in any way incumbent on the mortgagees to see to the application of such moneys, nor will they be responsible for the misapplication thereof.

Power of borrowing money for the purposes of these Acts. Sec. 22 of the Act of 1875.

Every local authority borrowing on the credit of such lands, houses, or other property, may pay out of the local rates the interest of any moneys so borrowed by them, and may execute such instruments by way of security, with such power of sale and other conditions as they think expedient.

The Commissioners of Sewers may borrow and take up at interest such money on the credit of the local rates, or any of

[1] These sections will be found in Appendix (1).

them, as they may require for the purposes of this Act, and may mortgage any such rate or rates to the persons by or on behalf of whom such money is advanced for securing the repayment to them of the sums borrowed, with interest thereon, and for the purposes of any mortgages so made by the Commissioners of Sewers, the clauses[1] of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners are incorporated with this Act; and, in the construction of that Act, "the special Act" will mean "this Act;" "the commissioners" will mean "the Commissioners of Sewers;" "the clerk of the commissioners" will mean any officer appointed for the purpose by the Commissioners of Sewers by this Act; and the mortgagees or assignees of any mortgage may enforce payment of the arrears of principal and interest due to them by the appointment of a receiver.

The Public Works Loan Commissioners, acting with the consent of the Treasury, may, on the recommendation of the confirming[2] authority, lend to any local authority any money required by them for the purposes of this Act, in the case of the Commissioners of Sewers, on the security of the local rates. Such loan must be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority, and will bear interest at the rate of 3½ per cent. per annum, or such higher rate as may, in the judgment of the Treasury, be necessary to enable the loan to be made without loss to the Exchequer.

The Explosives Act, 1875 (38 Vict., c. 17).

Local Authority for purposes of Act (sec. 67).

How expenses to be defrayed (sec. 70).

Provision of magazine by local authority. (sec. 72).

Borrowing powers for this purpose.

The Court of the Lord Mayor and Alderman of the City of London are constituted, by section 67 of the Explosives Act, 1875, the local authority in the City of London for the purposes of that Act, and, by section 70 of the same Act, the expenses incurred by any local authority in the execution of the Act, are directed to be paid out of the local rate, which, in the City of London, is declared to be the consolidated rate. By section 72 of the Act, any local authority, other than justices in petty sessions, is enabled, in certain cases, with the license of the Secretary of State, to provide a magazine for the keeping of explosives, and to borrow, on the security of the local rate, the amount required for the purpose of acquiring

[1] These clauses are set out in Appendix (1).

[2] The confirming authority, in the case of the Commissioners of Sewers, is the Secretary of State. See section 6 of the Act of 1875.

any land or right over land for any magazine, or for acquiring or building any magazine in pursuance of this section.

For the purpose of such borrowing, the clauses[1] of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, are incorporated with this Act, and in the construction of these clauses for the purposes of this Act, this Act is to be deemed the special Act, and the local authority borrowing are to be deemed to be the commissioners.

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages.

By section 9 of the Contagious Diseases (Animals) Act, 1878, the Corporation of London are constituted the local authority for all the purposes of that Act in the City of London and the liberties thereof; and are also constituted the local authority in the remainder of the metropolis for purposes of the provisions of that Act relating to foreign animals. By section 46 of the Act, the expenses of local authorities are directed to be defrayed out of the local rate, which, by section 9 and the Second Schedule to the Act, is declared to be in the case of the City of London the consolidated rate.

Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict., c. 74). Local authority for purposes of the Act (sec. 9). How expenses to be defrayed (sec. 46).

By section 49 of this Act, where the amount or proportion of the local rate levied, or required for this Act exceeds, or would exceed in any financial year, sixpence in the pound, a local authority may borrow at interest on the credit of the local rate any money necessary under this Act, and may secure the repayment thereof with interest by mortgaging the local rate for any term not exceeding seven years.

Power for local authority to borrow (sec. 49). Where rate exceeds sixpence in the pound.

Where the amount or proportion so levied or required, exceeds or would exceed in any financial year, ninepence in the pound, the Local Government Board may, if they think fit, on application of the local authority, extend the term to any period not exceeding fourteen years.

Where rate exceeds ninepence in the pound.

A local authority borrowing for the purposes of this section, must borrow subject to the provisions of the Local[2] Loans Act, 1875; and every loan raised under this section must be discharged in manner prescribed by section 13 of that Act, for which purpose a sinking fund is prescribed by this Act, if in any case the Local Government Board so direct, but not otherwise.

Borrowing to be subject to provisions of Local Loans Act, 1875.

A local authority, borrowing for purposes of the provisions of this Act relating to foreign animals may, if they think fit, give

Borrowing for purposes of Act relating to foreign animals.

[1] These clauses will be found in Appendix (1).

[2] The provisions of this Act are set out in Appendix (3).

as security, either with the local rate, if any, or separately therefrom, the charges which they are authorized to make for the use of a wharf or other place provided by them under this Act, and any estates, revenues or funds belonging to them, and not otherwise appropriated by law; and in that case the limitations in this section respecting the amount, or proportion of rate and term of years will not apply.[1]

3.—*Metropolitan Vestries and District Boards.*

The Metropolis Management Act, 1855 (18 & 19 Vict., c. 120, s. 42).

Section 42 of the Metropolis Management Act, 1855, declares that the board to be constituted as directed by that Act for every district[2] named in Schedule (B) to that Act, shall be a body corporate, by the name of "The Board of Works for the district," and that the vestry of every parish[3] mentioned in Schedule (A) to that Act, shall be a body corporate, by the name of "The Vestry of the parish of , in the county of ," and that every such board and vestry shall by such name respectively have perpetual succession and a common seal.

Borrowing powers for general purposes (sec. 183).

By section 183 of the same Act, every such district board and vestry is empowered for the purposes of defraying any expenses incurred, or to be incurred by them in the execution of the Act, to borrow and take up at interest, on the credit of all or any of the moneys or rates authorized to be raised by them under that Act, any sums of money necessary for defraying any such expenses. And for the purpose of securing the repayment of any sums so borrowed, together with the interest thereon, every such board or vestry may mortgage and assign over to the persons by or on behalf of whom such sums are

[1] As regards the powers of the Public Works Loan Commissioners to advance moneys to local authorities under this Act, see page 77.

[2] The districts thus named are the Whitechapel, Westminster, Greenwich, Wandsworth, Hackney, Saint Giles, Holborn, Strand, Fulham, Limehouse, Poplar, and Saint Saviour's districts; the Plumstead district united with the Lewisham district; and the Parish of Rotherhithe united with the Saint Olave district.

[3] The parishes thus mentioned are Saint Mary-le-bone; Saint Pancras; Lambeth; Saint George, Hanover-square; Saint Mary, Islington; Saint Leonard, Shoreditch; Paddington; Saint Matthew, Bethnal Green; Saint Mary, Newington; Surrey; Camberwell; Saint James, Westminster; Saint James and Saint John, Clerkenwell, to be considered as one parish; Chelsea; Saint Mary Abbott's, Kensington; Saint Luke, Middlesex; Saint George the Martyr, Southwark; Bermondsey; Saint George-in-the-East; Saint Martin-in-the-Fields; Hamlet of Mile End Old Town; Woolwich; Rotherhithe; and Saint John, Hampstead.

advanced, the respective moneys or rates upon the credit of which such sums are borrowed; and the respective mortgagees will be entitled to a proportion of the moneys or rates comprised in their respective mortgages according to the sums in such mortgages mentioned to have been advanced; and each mortgagee will be entitled to be repaid the sum so advanced, with interest, without any preference over any other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage. But no moneys may be so borrowed by any district board or vestry, without the previous sanction, in writing, of the Metropolitan Board of Works.

No priority amongst mortgages.

Consent of Metropolitan Board of Works necessary.

Every mortgage authorized to be made under the Act, must be by deed duly stamped, truly stating the date, consideration, and the time of payment, and must be sealed with the seal of the board or vestry, and may be made according to the form[1] (E) contained in the Schedule to the Act, or to the like effect, or with such variations or additions in each case as the board or vestry, and the party advancing the money intended to be thereby secured may agree to. And there must be kept at the office of the board or vestry, a register of the mortgages made by them and within fourteen days after the date of any mortgage an entry must be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register must be open to public inspection during office hours at the said offices, without fee or reward; and any clerk or other person

Form of mortgage (sec. 185).

Register of mortgages.

[1] The form in question is as follows:—

FORM OF MORTGAGE OF RATES.

Mortgage, Number ( ):

By virtue of an Act passed in the year of the reign of Queen Victoria, entituled (*here insert the title of this Act*) the Board of Works for the district of , *or* the Vestry of the Parish of (*as the case may be*) in consideration of the sum of paid to by A. B., of for the purposes of the said Act, do grant and assign unto the said A. B., his executors, administrators and assigns, all (*here describe the moneys or rates to be mortgaged*) to hold the said A. B., his executors, administrators, and assigns from the date hereof until the said sum of , with interest at the rate of per centum per annum, for the same shall be fully paid and satisfied; and it is hereby declared that the said principal sum shall be repaid on the day of , and that in the meantime the interest thereof shall be paid on the day of and the day of in every year.

In Witness whereof, the said District Board *or* the said Vestry (*as the case may be*) have hereunto set their seal, this day of , one thousand eight hundred and

having the custody of the same, refusing to allow such inspection will be liable to a penalty not exceeding £5.

Repayment of money borrowed at a time agreed upon.

The board or vestry making any such mortgage may, if they think proper, fix a time or times for the repayment of all or any principal moneys borrowed under the Act, and the payment of the interest thereof respectively, and may provide for the repayment of such moneys, with interest, by instalments or otherwise, as they may think fit. In case the board or vestry fix the time or times of repayment they must cause such time or times to be inserted in the mortgage deed; and at the time or times so fixed for payment, such principal moneys and interest respectively must, on demand, be paid to the party entitled to receive the same. If no other place of payment is inserted in the mortgage deed, the principal and interest will be payable at the principal office of the board or vestry, and, unless otherwise provided by any mortgage, the interest of the money borrowed thereupon must be paid half-yearly, and if no time is fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive the money may, at the expiration, or at any time after the expiration, of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case, the board or vestry may at any time pay off the money borrowed, on giving the like notice.

Interest on mortgages to be paid half-yearly.

As to repayments of moneys borrowed when no time has been agreed upon.

Every such notice must be in writing or print, or both, and if given by a mortgagee must be given in manner provided in the Act for service of notices[1] on the board or vestry, and if given by the board or vestry, must be given either personally to such mortgagee or left at his residence. If such mortgagee or his residence be unknown to them, or cannot be found after diligent enquiry, the notice must be given by advertisement in the *London Gazette* and if the board or vestry have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then, at the expiration of the notice

Interest to cease on expiration of notice to pay off mortgage debt.

[1] Section 220 of the Act provides that any summons or notice, or any writ or other process at law or in equity, or any other matter or thing whatsoever required to be served upon any district board or vestry, may, unless otherwise provided in the Act, lawfully be served by delivering the same personally to the clerk of such respective board or vestry, or by leaving the same at the principal office of such board or vestry.

all further interest will cease to be payable, unless on demand of payment pursuant to such notice, or at any time thereafter, the board or vestry fail to pay the principal and interest due at the expiration of such notice on such mortgage.

Power to borrow to pay off existing securities (sec. 187).

Every district board and vestry, with respect to any security for any existing debt or liability which such board or vestry are by the Act required to discharge, and any security granted by such board or vestry under this Act, may raise and borrow the moneys necessary for paying off such security, and pay off the same; and the moneys borrowed for the purpose of such payment must be secured and paid in like manner as if borrowed for defraying the expenses of the execution of this Act. Nothing contained in the Act will extend to authorize the paying off of any security otherwise than in accordance with the provisions thereof.

Payment of principal and interest may be enforced by the appointment of a receiver (sec. 188).

If at the expiration of six months from the time when any principal or interest has become due upon any mortgage made under this Act, and after demand in writing, the same be not paid, the mortgagee may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are empowered, after hearing the parties, to appoint, in writing, under their hands and seals, some person to collect and receive the whole or a competent part of the moneys or rates liable to the payment of the principal or interest, in respect of which the application is made, until the principal or interest, or both, as the case may be, together with the costs of the application and the costs of collection, are fully paid; and upon such appointment being made, all such moneys or rates or such competent part thereof as aforesaid, must be paid to the person appointed, and when so paid will be so much money received by or to the use of the mortgagee or mortgagees, and must be rateably apportioned between or among them, but subject and without prejudice to such right of priority, if any, as shall then be subsisting between the mortgagees or any of them. No mortgagees, however, will be prejudiced, either directly or indirectly, by any loss which may be occasioned by the mis-application or non-application of any moneys or rates received by any receiver appointed otherwise than upon the application or with the express consent of such mortgagee, or by any act, deed, neglect, or default on the part of such receiver, but such loss must be wholly borne by the mortgagee or mortgagees upon whose application or with whose express

consent such receiver was appointed. And no such application will be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application be made by two or more mortgagees to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

Transfer of mortgages. (sec. 189).

Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the schedule (F) to this Act annexed or to the like effect,[1] and there must be kept at the office of every board and vestry making any mortgages under this Act a register of the transfers of such mortgages. Within thirty days after the date of any such deed of transfer, if executed within the United Kingdom or within thirty days after its arrival in the United Kingdom if executed elsewhere, the same must be produced to the clerk of the board or vestry making the mortgage; and such clerk must, upon payment of the sum of 5*s*., cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer, and upon any transfer being so registered, the transferee, his executors, administrators, or assigns, will be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and every such transferee may, in like manner, transfer his estate and interest in any such mortgage, and no person except the person to whom the same has been last transferred, his executors, administrators, or assigns, will be entitled to release or discharge any such mortgage, or any money secured thereby.

Register of transfers.

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[1] This form is as follows :—

I, A. B., of , in consideration of the sum of pounds paid to me by C. D., of , do hereby transfer to the said C. D., his executors, administrators, and assigns, a certain mortgage, number , bearing date the day of , and made by the Board of Works for the District of , or the Vestry of the Parish of for securing the sum of and interest (*or if such transfer be by indorsement on the mortgage, insert, instead of the words after "assigns," the within security*), and all my property, right, and interest in and to the money thereby secured, and in and to the moneys thereby assigned.

In Witness whereof I have hereunto set my hand and seal, this day of , one thousand eight hundred and .

A. B. (L.S.)

Sinking fund to be formed for paying off mortgages (sec. 190).

For the purpose of providing a fund for paying off mortgages granted under this Act, the board or vestry granting such mortgages are required, once in every year, to set aside out of the moneys or rates charged thereby, such sum as they think proper, being not less than £2 per centum on the amount of the principal moneys secured thereby. And the sum so from time to time set aside, and all other moneys applied by the board or vestry in augmentation of the fund must be applied in the manner[1] thereinafter directed, in payment, so far as the same will extend, of the principal money secured by such mortgages, or the same must be invested in the public funds, or in government or real security, in the name of the board or vestry. And the dividends and interest of the moneys so invested, when and as the same become due, must from time to time be received and invested in like manner, in order that the moneys so set aside and invested may accumulate at compound interest. When such accumulated fund amounts to a sum which, in the opinion of the board or vestry, can be conveniently applied for that purpose, the stocks, funds, or securities whereon the same is invested, must be sold, or otherwise converted into money, and the moneys arising from any such sale and conversion must be applied[1] in the manner thereinafter directed, in payment, so far as the same will extend, of the principal moneys, and so from time to time until the whole of the principal moneys are discharged.

Mode of paying off mortgages (sec. 191).

When and as often as the board or vestry are enabled and think it expedient to pay off one or more of the said mortgages, they must cause the several numbers of such mortgages to be written upon distinct slips of paper of an equal size, and all such slips must be rolled or folded up in a similar form and put in a box, and the clerk of the board or vestry must at a meeting of the board or vestry, draw separately out of the box one of such slips, and thereupon the mortgage corresponding with the number so drawn must be paid off by the board or vestry. After every such ballot the board or vestry are to cause a notice, signed by the clerk to be given to the person entitled to the money to be paid off, and such notice must express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified in the notice, at the expiration of six months from the date of giving the notice; and, at

[1] *I.e.* by the following section.

the expiration of such period the interest of the principal money to be paid off will cease, unless the principal money and interest be not paid on demand pursuant to such notice; but the principal money and the interest to the end of the said six months will, nevertheless, be payable on demand.

The Metropolis Management (Amendment) Act, 1862 (25 & 26 Vict., c. 102, s. 72). Power of borrowing for street improvements.

By the 72nd section of the Metropolis Management Amendment Act, 1862, every metropolitan district board and vestry is empowered to borrow and take up at interest under the provision contained in the 183rd section of the Metropolis Management Act, 1855, on the credit of all or any of the moneys or rates authorized to be raised by them under that Act, any sums necessary for defraying the expenses of any improvements thereby authorized; viz., the making,[1] extension, widening, alteration, or improvement of any street, road or way, or any bridge over a canal traversing any part of the district or parish of such board or vestry, for the purpose of facilitating passage or traffic, or any other purpose.

The Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879 (42 & 43 Vict., c. 128, s. 30). Powers of borrowing for works of flood prevention.

By section 30 of the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879, every Metropolitan vestry, and every district board, for the purpose of paying any expenses from time to time incurred by them in the execution of any flood works under that Act, or any expenses which the Metropolitan Board of Works may from time to time require payment of as therein-after provided,[2] are required from time to time to raise the sums they may require by borrowing, or by means of rates in every respect as if such expenses were expenses of such vestry or district board incurred in the execution by them of the Metropolis Management Act, 1855, in relation to the sewerage of their parish or district.

The Electric Lighting Act, 1882 (45 & 46 Vict., c. 56).

By section 32 of the Electric Lighting Act, 1882, metropolitan vestries and district boards are constituted local authorities for the purposes of that Act; and in cases where they are authorized to supply electricity by any license, order or

[1] By section 144 of the Metropolis Management Act, 1855, the power of carrying out these improvements was given to the Metropolitan Board of Works only. By the above quoted section, the district boards and vestries were also authorized with the previous consent, in writing, of the Metropolitan Board of Works, to carry them out, or to contribute or join with that board, or any other body or persons in carrying them out.

[2] These are expenses, incurred by the Metropolitan Board of Works on account of works, for the execution of which the vestry or district board is liable, and therefore recoverable from such vestry or district board under section 31 of this Act.

special Act, they are empowered by section 8 and the Schedule to the Act from time to time to borrow money on the security of the lighting rate, or other fund or rate applicable for lighting, with the consent of the Metropolitan Board of Works, and subject to the provisions and restrictions with respect to borrowing and the repayment of loans as are contained in sections[1] 183 to 191, both inclusive, of the Metropolis Management Act, 1855.

Power to borrow for electric lighting (sec. 8 & Schedule xiv).

4.—*Managers of the Metropolitan Asylum[2] District, and Managers of Sick Asylum[3] Districts.*

Under section 15 of the Metropolitan Poor Act, 1867, the Local Government Board may from time to time, by order, direct the above managers to purchase or hire, or to build, and (in either case) to[4] put up a building[5] or buildings for the asylum to be provided under this Act, of such nature and size, and according to such plan, and in such manner as the Local Government Board think fit, and the managers are required to carry such directions into execution. The same section provides that the managers shall have for the purposes of the asylum, the like powers as are for the time being vested in guardians of unions or parishes in the metropolis, relative to the purchase or leasing of lands or buildings[6]; but

Metropolitan Poor Act, 1867 (30 Vict., c. 6, s. 15).

Power of Local Government Board to order asylums to be provided.

Powers of managers to purchase or hire lands or buildings.

[1] The provisions of these sections will be found above in pages 116 to 122.

[2] The following is a list of the unions and parishes comprised in this district. They are all wholly, or for the greater part thereof, included in the metropolis, as defined by the Metropolis Management Act, 1855:—Unions: City of London, Fulham, Greenwich, Hackney, Holborn, Lewisham, Poplar, Saint George's, Saint Olave's, Saint Saviour's, Stepney, Strand, Wandsworth and Clapham, Westminster, Whitechapel, Woolwich. Parishes: Mile End Old Town, Paddington, Saint George-in-the-East, Saint Giles, Camberwell; Saint Giles-in-the-Fields, and Saint George, Bloomsbury; Saint John, Hampstead; Saint Leonard, Shoreditch; Saint Luke, Chelsea; Saint Marylebone; Saint Mary Abbott's, Kensington; Saint Mary, Lambeth; Saint Matthew, Bethnal Green, Saint Pancras.

[3] There are two sick asylum districts, viz., the Central London Sick Asylum district, comprising the Strand and Westminster Unions, and the parishes of Saint Giles-in-the-Fields, and Saint George, Bloomsbury; and the Poplar and Stepney Sick Asylum district, comprising the Poplar and Stepney Unions.

[4] By section 20 of this Act, the managers are required from time to time to provide for the asylum such necessary fixtures, furniture, and conveniences, as the Local Government Board from time to time, by order, direct.

[5] As to ships, vessels, huts, tents, and other temporary erections, see below, page 125.

[6] As to these powers, see below under the head "Boards of Guardians."

Consent of ratepayers not to be necessary.

that the consent of any ratepayers or owners of property in a union or parish will not be necessary with respect to any sale, lease, or other disposition of any workhouse, building, or land by guardians or overseers to the managers. It further provides

Powers of borrowing.

that the managers may borrow money for purchasing lands or buildings, and for building, fitting up, and furnishing buildings erected or hired for the asylum according to the provisions of the Poor Law Acts under which guardians are for the time

Rate to be charged.

being empowered to borrow money,[1] and may charge the poor rates of the unions and parishes forming the district with the money so borrowed, and interest, subject and according to the

Limitation of borrowing powers.

following provisions:—(1) The amount borrowed must not exceed one-third of the aggregate annual expenditure on the relief of the poor within the whole district (exclusive of re-imbursements) for the period of three years ending on the twenty-fifth day of March next preceding the borrowing of the money. (2) The amount borrowed must be charged on the poor rates of the several unions and parishes forming the district in the proportions in which they contribute to the maintenance of the

Mode of repayment.

asylum.[2] (3) The amount borrowed must be paid off, with interest, by equal annual instalments, not exceeding twenty.

Extension of period and alteration of mode of repayment. Poor Law Amendment Act, 1868; Poor Law Loans Act, 1871; Unions Loans Act, 1869; Poor Law Act, 1879.

The period for repayment fixed by this Act was extended to thirty years by section 35 of the Poor Law Amendment Act,[3] 1868. Sections 1 to 3, both inclusive, of the Poor Law Loans Act,[3] 1871, also apply to loans raised by these managers as well as to loans raised by Boards of Guardians. Section 13 of the Poor Law Act,[3] 1879, has also provided that the provisions of the Unions Loans Act,[3] 1869 (see section 5 of that Act), shall be deemed to have applied, and shall apply to the managers of districts constituted under the Metropolitan Poor Act,[3] 1867, in like manner as if they were Guardians. See also

[1] These provisions will be found below under the head "Boards of Guardians."

[2] This paragraph is repealed by section 9 of the Metropolitan Poor (Amendment) Act, 1869, which, in lieu thereof, provides that the sums of money borrowed at the passing of that Act or thereafter to be borrowed by the managers of any district under the authority of the Metropolitan Poor Act, 1867, or any subsequent Act, shall, with interest thereon, be charged upon and paid off out of the common fund of the district. The term "common fund of the district," is defined by section 23 of the same Act as meaning the fund raised by contributions from the unions and parishes forming the district assessed on and contributed by them in conformity with the provisions of the Metropolitan Poor Act, 1867.

[3] The provisions of this Act are set out below under the head of "Boards of Guardians."

section 12 of the Poor Law Act,[1] 1879, which has provided that section 5 of the Unions Loans Act,[1] 1876 is to be construed as if there were substituted for the thirty years therein mentioned such number of equal annual payments, not exceeding thirty, as the Guardians, with the consent of the Local Government Board, may in each case determine. In the case of the Metropolitan Asylums Board, the period has been further extended where the money borrowed is lent to that board by the Metropolitan Board of Works. See section 37 of the Metropolitan Board of Works (Loans) Act, 1869, which will be found in Appendix (2), and which provides that notwithstanding anything in the Metropolitan Poor Act, 1867, and the Acts amending the same, the amount lent by the Metropolitan Board of Works to the Metropolitan Asylums Board shall be repaid, with interest, within such period, not exceeding sixty years, as may be agreed upon between the two boards, subject to the approval of the Treasury. The same section enables the Board of Works to lend and the Asylums Board to borrow money in pursuance of the section for the purpose of repaying any loan due at the passing of the Act from the latter board.

Metropolitan Poor (Amendment) Act, 1869 (32 & 33 Vict., c. 63, s. 11).

Power to provide training ships.

Under section 11 of the Metropolitan Poor (Amendment) Act, 1869, the managers of any School or Asylum District are empowered, with the consent of the Local Government Board, to purchase, hire, or otherwise acquire and fit up and furnish one or more ships to be used for the training of boys for the sea service, and every such ship is to be deemed to be a school or asylum, as the case may be, within the Metropolitan Poor Act, 1867, and the several Acts therein referred to as the Poor Law Acts respectively.

(34 Vict., c. 15, s. 1).

Power to provide ships, vessels, huts, tents, &c.

All the provisions of the Metropolitan Poor Act, 1867, (as amended by the Metropolitan Poor (Amendment) Act, 1869) which relate to the procuring of any buildings for the purpose of an asylum under the former Act, are by section 1 of the 34 Vict., c. 15, made applicable to any ship, vessel, hut, tent, or other temporary erection which may be used by the managers, with the approval of the Local Government Board, for the reception of paupers, or otherwise for the purposes of the asylum, whether the same shall have been acquired or used prior to

[1] The provisions of this Act are set out below under the head of "Boards of Guardians."

the passing of this Act, or shall be acquired or used hereafter; and such ship, vessel, hut, tent, or other temporary erection is, for all the purposes of the first-mentioned Act, to be deemed to be an asylum specially provided under it.

Act incorporated with Metropolitan Poor Act, 1867 (sec. 2).

This Act is to be construed as and taken to be incorporated with the Metropolitan Poor Act, 1867.

County Authorities.

County Buildings (7 Geo. IV., c. 63). Purposes for which justices may borrow under this Act.

Though the loans of county authorities are small in amount as compared with those of some other local authorities, the statutes relating to them are somewhat numerous. The oldest of these statutes which is now in force is usually referred to as "The County Buildings Act, 1826" (7 Geo. IV., c. 63). It enables county justices to borrow for the purposes of county and shire halls, judges' lodgings, and other county buildings. Section 10 of this Act provides that when it shall appear that the amount of any estimate approved by the justices for the building or rebuilding, repairing, improving, or enlarging any shire hall, county hall, or other building for holding the assizes or grand or other sessions, or any judges' lodgings, under the powers of this Act, "shall exceed one-half of the amount of the ordinary annual assessment for the rate of any county, riding, or division (such ordinary assessment to be taken on an average of such rate for the last seven years preceding), it shall and may be lawful for the justices in quarter sessions assembled, from time to time to borrow and take up on mortgage of such rate by instrument in the Form[1] contained in the Schedule to this Act annexed, marked (A), or to the like effect, any sum of money, not exceeding the amount of such estimate, in sums not less than fifty pounds each, at interest, as to the said justices shall appear necessary and expedient for the purposes

Shire halls, county halls, sessions houses, judges' lodgings. When authority may borrow for these purposes. Form of mortgage.

[1] The Form in question is as follows:—

Form of Mortgage and Charge upon the County Rate for securing Money Borrowed.

We, A. B., one of His Majesty's justices of the peace, and chairman of the court of quarter sessions of the peace holden at on the day of .for the county, &c., of (*as the case may be*), C. D. and E. F., Esqs., two other of His Majesty's justices of the peace, acting for the said county, &c., and assembled in the said court, in pursuance of the powers given to us by an Act passed in the seventh year of the reign of His Majesty King George the Fourth, intituled, &c. (*insert the title of this Act*), do hereby in open court mortgage and charge all the rates to be raised within the said county, &c. (*as the case shall be*), under

aforesaid, and to secure every such sum of money so borrowed upon the credit of the said rates; and it shall and may be lawful for the justices so assembled to treat and agree with any person for the loan of any such sums of money, and by their order to confirm every such agreement; and every such agreement, signed by the chairman and two or more other justices present at the time of making such order, shall be, and the same is hereby declared to be, effectual for securing every sum of money so advanced, with interest thereon, to the person or persons advancing the same, on such terms as in and by such agreement shall be stipulated, and copies or extracts of all such agreements shall be kept by the clerk of the peace; and it shall and may be lawful for every person, who shall be entitled to the money thereby secured, and such person is hereby empowered, by endorsing his name on the back of such security, to transfer the same and his right to the principal money and interest thereby secured unto any other person; and every such assignee may, in like manner, transfer the same again, and so *toties quoties;* and the person to whom such security or any such assignment thereof shall be made, and his executors, administrators, and assigns shall be creditors upon the same rate in an equal degree one with another, and shall not have any preference with respect to the priority of any moneys so advanced."

How borrowing to be effected.

Copies or extracts of agreements to be kept with the clerk of the peace.

Transfer of securities.

No priority between mortgagees.

The following section of the same Act empowers and requires the justices to charge the county rate "not only with the interest of the money so borrowed, but also with the payment of such further sum as shall ensure the payment of the whole sum borrowed within fourteen years from the time of borrowing the same;" and further provides that "such sums shall be assessed in such manner as county rates are directed to be assessed under the laws in force for that purpose, and shall be

Money borrowed to be repaid in 14 years.

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the description of county rates, by the laws now in being, with the payment of the sum of , which G. H., of , hath proposed and agreed to lend, and hath now actually advanced and paid towards defraying the expenses of building, repairing, &c. (*as the case shall be*), the shire hall, county hall, or other buildings, or judges' lodgings (*as the case shall be*) for the said county, &c.; and we do hereby assign the same unto the said G. H., his executors, administrators, and assigns, for securing the payment of the sum of , and interest for the same after the rate of *per centum per annum*, and do order the treasurer for the said county, &c., or other persons (*as the case shall be*) to pay the interest of the said sum half-yearly as the same shall become due, until the principal shall be discharged, pursuant to the directions of the said Act.

paid and applied, under the direction of the justices, in discharge of the interest and of so many of the principal sums on the said securities, as such money will extend to discharge in each year until the whole of the money, for which such securities shall be made, and the interest thereof, shall be fully paid and discharged. And the justices shall, and they are hereby required, to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due time, so as to provide for the regular payment thereof. And such justices shall also, and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments, under the authority of this Act, in a book or books separate and apart from all other accounts; and the same to adjust and settle in such manner that it may easily be seen what interest is growing due, and what principal money has been discharged, and what remains due, and the books or book so adjusted and settled to deliver into court at every general or quarter sessions. And the justices shall also, and they are hereby required at every such sessions carefully to inspect all such accounts, and to make orders for carrying the purposes of this Act into execution in such manner as to them shall seem meet; . . . . the justices so assembled in sessions as aforesaid, shall direct in what order such securities shall be discharged, by drawing lots or otherwise as they shall think fit, taking care to discharge, in the first place, all such securities as shall bear the highest rate of interest."

Provision to be made for that purpose.

Justices to inspect accounts.

And direct in which order securities to be discharged.

7 Will. IV. and 1 Vict., c. 24; 2 & 3 Vict., c. 69; and 10 & 11 Vict., c. 28.

This Act has been explained and amended by the 7 Will. IV. and 1 Vict., c. 24; the 2 & 3 Vict., c. 69; and the 10 & 11 Vict., c. 28 (neither of which has, however, made any alteration in the above quoted sections), and has been more recently amended by the County Buildings (Loans) Act, 1872 (35 & 36 Vict., c. 7), the first section of which authorizes any sum borrowed after the 13th of May, 1872, under the County Buildings Act, 1826, to be repaid within thirty years instead of within fourteen years from the time of borrowing the same, and provides that "the provisions of the County Buildings Act, 1826, and of any enactments which relate to the borrowing of money and repayment of money borrowed under the provisions of that Act, shall be construed as if thirty years were therein substituted for fourteen years."

County Buildings Loans Act, 1872 (35 & 36 Vict., c. 7). Period for repayment extended to 30 years.

County of Middlesex.

It should also be mentioned that so much of the County

Buildings Act, 1826, as enables the justices to borrow money for any purpose other than the purpose of paying off and discharging money borrowed before the 30th of June, 1845, has been repealed, so far as it relates to the county of Middlesex, by the 8 & 9 Vict., c. 32, which has conferred special powers of borrowing on the Middlesex justices.

8 & 9 Vict., c. 32.

The next in the order of date of the Acts of Parliament conferring borrowing powers on county authorities is an Act intituled, "An Act to amend the Act for the Establishment of County and District Constables" (3 & 4 Vict., c. 88), under which station-houses and strong rooms for the temporary confinement of persons taken into custody by the county police, may be provided upon lands purchased for the purpose or belonging to the county, after the plans have been approved by the Secretary of State (section 12). Section 13 of this Act empowers the justices to borrow money for the purpose of purchasing such lands, or of building any such station-houses and strong rooms, and to charge the future police rates with the amount of the loan, and with interest thereon. "Provided always that any money borrowed for such purpose shall be repaid by yearly instalments, not less than one twentieth part of the sum borrowed, with interest on the same, in any one year."

Station-houses and strong rooms (3 & 4 Vict., c. 88, s. 12).

Approval of Secretary of State necessary. Power to borrow (sec. 13).

One-twentieth to be repaid annually.

By section 40 of the Public Works (Loans) Act, 1875, the justices for any county, or any riding, division, parts, or liberty of a county, in general or quarter sessions assembled, are empowered (if they resolve by a majority of not less than five justices so to do), to borrow money from the Public Works Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police-station and justices' room, and offices connected therewith, or any of such purposes, and to levy a rate or any increase of a county rate for the purpose of paying the principal and interest of such loan, and to mortgage such rate or the county rate to the commissioners in accordance with that Act. The justices have power to give the mortgage in such manner and form as the commissioners may direct.

Police-stations, justices' rooms and office. Public Works (Loans) Act, 1875 (38 & 39 Vict., c. 89, s. 40).

In the year 1841, county authorities were empowered to borrow for the purposes of county bridges by an Act intituled "An Act to provide for repairing, improving, and rebuilding County Bridges" (4 & 5 Vict., c. 49.) By this Act the county justices were authorized, in certain cases, to borrow for the pur-

County bridges (4 & 5 Vict., c. 49).

poses of upholding, maintaining, supporting, altering, widening repairing, improving, or rebuilding county bridges and their approaches, or the land arches connected there with. The provisions of this Act are similar *mutatis mutandis*, to the above quoted provisions of the County Buildings Act, 1826, with the exception that money may be borrowed for the purposes of the Act where the amount of the estimate exceeds one-fourth of the ordinary annual assessment to the county rate.

County of Middlesex (8 & 9 Vict., c. 32).

These powers have been repealed, and re-enacted in an improved form (allowing 30 years for the repayment of borrowed moneys) so far as they relate to the County of Middlesex, by the 8 & 9 Vict., c. 32, to which reference has already been made (page 129), and have more recently been extended so far as they relate to all the counties of England and Wales by the County Bridges Loans Extension Act, 1880 (43 & 44 Vict., c. 5), and the South Wales Bridges Act, 1881 (44 Vict., c. 14). The former of these Acts, which is to be construed as one Act with the Highways and Locomotives (Amendment) Act, 1878, provides as follows:—"Where under section[1] 22 of the Highways and Locomotives (Amendment) Act, 1878, the county authority, as defined by that Act, see fit to make a contribution towards the cost of a bridge, erected as therein mentioned, they may borrow on mortgage of the county rate all or any part of the amount of such contribution in the same manner in every respect as if the amount to be borrowed had been the amount of an estimate made and approved in the manner mentioned in the 4 & 5 Vict., c. 49 (hereinafter termed the principal Act), and all the powers, directions, and provisions of the principal Act extend and apply to the moneys borrowed under this Act; provided that the sum required for or towards such contribution as aforesaid may be borrowed in exercise of the power hereby conferred, although the same shall not exceed one-fourth of the amount of the ordinary annual assessment in the principal Act referred to."

County Bridges Loans Act, 1880 (43 & 44 Vict., c. 5); South Wales Bridges Act, 1881 (44 Vict., c. 44).

Section 22 of the Highways and Locomotives (Amendment) Act, 1878, did not originally apply to the counties of Glamorgan, Brecknock, Radnor, Carmarthen, Pembroke, and Cardigan, but it was made applicable to them by the South Wales Bridges

[1] This section is as follows:—"The county authority may make such contribution as it sees fit, out of the county rate towards the cost of any bridge to be hereafter erected, after the same has been certified in accordance with the provisions of section 5 of the 43 Geo. III., c. 59, as a proper bridge to be maintained by the inhabitants of the county; so always that such contribution shall not exceed one-half the cost of erecting such bridge."

Act, 1881, which also conferred on the county authorities of these counties the same powers as those given to other county authorities by the County Bridges Loans Extension Act, 1880.

Lunatic Asylums.

Under the Lunatic Asylums Act, 1853 (16 & 17 Vict., c. 97, ss. 47 to 52), the justices of every county in general or quarter sessions assembled, or the major part of them, such major part being not less than five [and the council of every borough] are empowered from time to time to borrow, and take up on mortgage of the rates to be made under that Act for such county [or borough], or on mortgage of such rates, together with all other rates or funds, or any of them, of the same county or borough, all or any of the moneys required for paying and defraying any moneys, costs, or expenses payable by such county [or borough] for any of the purposes of that Act; and such money may be so raised at any rate of interest not exceeding five pounds per centum per annum.

Lunatic Asylums Act, 1853 (16 & 17 Vict., c. 97, s. 47 to 52).

Power to borrow on mortgage of rates (sec. 47).

Every such mortgage may be made by an instrument in the form[1] contained in the Schedule (B) thereto annexed, or to the like effect, and must be executed, in the case of a county, by the chairman, and two or more justices present at the time of making it; and in the case of a borough, by affixing the common seal of the borough thereto. Every such mortgage will be effectual for securing to the person advancing the sum of money in such mortgage expressed to be advanced, his executors, administrators and assigns, the repayment thereof, with interest for the same, after such rate, and at such time, and in such manner, as in such mortgage provided; and the mortgages are to be numbered in the order of succession in which they are granted. Copies or extracts of them are to be kept by the clerk of the peace, or other proper officer having the custody of the records of the quarter sessions of such county, or of the records of the borough, as the case may be. The provisions of this Act, with respect to the transfer of mortgages, their priority, and the provision to be made for the payment of the interest and a portion of the principal in every year, are nearly identical with those contained in the County Buildings Act, 1826, which are set out above, in pages 127 and 128.

Form of mortgage.

Effect of mortgage.

Mortgages to be numbered.

Copies or extracts to be kept

Transfer of mortgages, priority, &c.

[1] This form is very similar *mutatis mutandis* to that given in the Schedule to the County Buildings Act, 1826, of which a copy is given above at page 126.

Money borrowed to be repaid in 30 years (sec. 50).

Money borrowed under the Act is required to be repaid within thirty years from the time of borrowing the same (section 50), and the Public Works Loan Commissioners are empowered to lend money to the county authority [or the council of the borough] for the purposes of the Act (section 48).

Power to Public Works Loan Commissioners to make advances (sec. 48).

Persons lending money on mortgage of rates, &c., not bound to give proof that notices have been given, &c. (sec. 51).

No person lending money to any justices of any county [or the council of any borough] and taking a mortgage for securing repayment of the same, executed in manner directed by the Act, and purporting to be made under its authority is bound to require proof that the several provisions of this Act, or any former Acts have been duly complied with. If there is an order of the justices of any county in general or quarter sessions [or of the council of any borough] making application for the loan, and any mortgage has been thereupon duly executed, either before or after the passing of this Act, as by any Act then in force, or by this Act is provided, the justices, or the council [as the case may be] have full power to levy the rates mortgaged for repayment of the money so borrowed, with interest, notwithstanding that the provisions of this Act, or any former Act or Acts may not have been complied with; and it is not competent for any ratepayer or other person to question the validity of any such rate or mortgage on the ground that such provisions have not been complied with (section 51).

Power to raise moneys to pay off sums already borrowed (sec. 52).

In every case, however, in which any moneys have been borrowed under the powers of any former Act or this Act, the justices of the county [or council of the borough], for which such moneys have been borrowed (with the consent of the parties to whom the same are owing) may pay off the moneys borrowed, and raise and borrow the moneys necessary for that purpose, and also repay the last mentioned moneys and the interest thereof under the powers of this Act, as if such moneys were borrowed under the powers above referred to; but all moneys borrowed must be discharged within thirty years from the time of first borrowing the same (section 52).

Reformatories and industrial schools. Prison Authorities Act, 1874 (37 & 38 Vict., c. 47). Power to borrow (sec. 2).

By the Prison Authorities Act, 1874 (37 & 38 Vict., c. 47), county justices and other prison authorities are empowered, subject to the provisions of the Elementary Education Act, 1870, and with the approval of the Secretary of State, to borrow money for the purpose of defraying or contributing towards the expense of altering, enlarging, rebuilding, establishing, building or purchasing the site of any industrial or reformatory school under the Industrial Schools Acts, 1866 and 1872, and the

Reformatory Schools Acts, 1866 and 1872, or any of them (section 2).

Any moneys borrowed by a prison authority under this Act, may be charged by that authority on any county rate, or rate in the nature of a county rate [borough [1] rate] or other rate applicable to the maintenance [2] of a prison, and leviable by that authority, or on any other property belonging to that authority, and applicable to the same purpose as the said rates, and must be repaid, together with the interest due thereon, out of such rate or other property (section 3).

Charge of borrowed moneys (sec. 3).

The clauses [3] of the Commissioners Clauses Act, 1847, with the exception of the eighty-fourth clause, with respect to mortgages to be created by the commissioners, are incorporated with this Act, and any mortgagee or assignee may enforce payment of his principal and interest by the appointment of a receiver. Where a prison authority borrows any money under this Act, it must charge the rates or property out of which the moneys borrowed are payable, not only with the interest of the moneys so borrowed, but also with the payment of such further sum as will ensure the repayment of the whole sum borrowed within thirty years (section 4).

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages (sec. 4).

Money borrowed to be repaid in 30 years.

For the purposes of the Industrial and Reformatory Schools Acts and this Act, the justices of the county of Worcester, in quarter sessions assembled, are to be deemed to be the prison authority for the county of Worcester at large, and the council of the City of Worcester are to be deemed to be the prison authority for the City of Worcester and county of the same city, anything in the Worcester Prison Act, 1867, or any other Act notwithstanding (section 5).

Special provision as to county and City of Worcester (sec. 5).

Section 5 of the Militia Law Amendment Act, 1854 (17 & 18 Vict., c. 105), authorizes the county justices to borrow upon

Militia storehouses.

[1] This rate can, of course, only be charged when the corporation of a borough are the prison authority.

[2] The obligation of prison authorities to maintain and provide prisons ceased on the 1st of April, 1878. See section 16 of the Prison Act, 1877 (40 & 41 Vict., c. 21). But section 52 of that Act provided that nothing contained in the Act should affect the powers or jurisdiction of a prison authority in relation to any reformatory school, or to any industrial school, under the Reformatory Schools Act, 1866, and the Industrial Schools Act, 1866, or either of such Acts, or any Act amending the said Acts, or any of them. The Prison Authorities Act, 1874, comes within this description, as it is to be construed, so far as it relates to industrial schools, with the Industrial Schools Acts, 1866 and 1872, and so far as it relates to reformatory schools, with the Reformatory Schools Acts, 1866 and 1872.

[3] These clauses will be found in Appendix (1).

Militia Law Amendment Act, 1854 (17 & 18 Vict., c. 105). Power to borrow on mortgage of county rates (sec. 5). Forms of mortgage, and priorities of mortgagees.

mortgage of the rates of the county all or any part of the money necessary for paying the expenses of purchasing, building, enlarging, or altering any place provided for keeping the arms, accoutrements, clothing, and other stores belonging to any regiment, battalion, or corps of militia when not embodied. Forms of mortgage and transfer of mortgage are given in the Schedules to the Act. The Act expressly provides that the mortgagees shall rank equally with one another according to the sums mentioned in the mortgages to be advanced by them, and the form of mortgage given in the Schedule to the Act apparently contemplates that they should rank equally with other mortgagees, who may advance or who may have advanced money under other Acts of Parliament on the security of the same rates.

Justices to provide for interest on mortgages and repayment of principal (sec. 6).

Section 6 of this Act directs that the justices shall, in every year, provide for and cause to be paid out of the county rates, in the manner and at the times specified in the mortgages, the moneys required for the time being to pay the interest on the moneys borrowed under the Act, or under the 16 & 17 Vict., c. 166 (the borrowing powers given by which are repealed by this Act), and then unpaid, and shall also set apart and appropriate a further sum, not being less than one-thirtieth part of the principal sum originally borrowed upon such mortgages, and shall apply the same in the repayment of so much of the said principal sums then unpaid, as it will extend to discharge, year by year, until the whole of such principal sums have been repaid; and the justices are, by agreement with the parties entitled to the mortgages, or, in default of agreement, by such other means as they deem most equitable and convenient, to determine the order of priority in which the several sums advanced shall be repaid.

Power to reborrow (sec. 7).

The justices, with the consent of the parties entitled to the mortgages, may pay off from time to time any of the moneys borrowed under this Act, or the 16 & 17 Vict., c. 116, and reborrow from time to time the moneys necessary for that purpose, but so that all moneys borrowed under either of these Acts shall be repaid within thirty years from the time of first borrowing the same (section 7).

Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict., c. 49).

By section 9 of the Contagious Diseases (Animals) Act, 1878, the justices in general or quarter sessions assembled are, except within the metropolis, constituted the local authority for the purposes of that Act; and, by section 46 of the Act,

the expenses of local authorities are directed to be defrayed out of the local rate, which, by section 9 and the second schedule to the Act, is declared to be in counties, except within the metropolis, the county rate or rate in the nature of a county rate. The borrowing powers of county authorities under this Act are contained in section 49, and will be found above at pages 115 and 116.

Local authority for purposes of Act (sec. 9). How expenses to be defrayed (sec. 46). Borrowing powers under Act.

Municipal Corporations.[1]

Under the Municipal Corporations Act, 1882, section 106, Municipal Corporations are empowered, with the approval[2] of the Treasury, to borrow, at interest, on the security of any corporate land, or of any land proposed to be purchased by them under that Act, or of the borough fund or borough rate, or all or any of those securities, such sums as they, from time to time, think requisite,[3] for the purchase of land, or for the purpose of any building[4] which they are by that Act authorized to erect. By section 108 of the same Act they are prohibited from selling,

The Municipal Corporations Act, 1882 (45 & 46 Vict., c. 50), power to borrow for purchase of land or erection of buildings (sec. 106).

[1] The borrowing powers of Municipal Corporations, as Urban Sanitary Authorities, will be found below under the head "Urban and Rural Sanitary Authorities."

[2] As to the notice which the council must give of their intention to apply for the approval of the Treasury, see below under section 236 (page 139.) The approval is sufficiently given by a letter signed by the Secretary to the Treasury, but such approval cannot authorize any further alienation or charge of the corporation property further than is specified in the memorial on which it is founded. *Arnold* v. *the Mayor of Gravesend* (25 L. J. Ch. 776).

[3] With respect to the effect of these words, see *Horton* v. *Westminster Improvement Commissioners* (7 Exch. 780), where the defendants were empowered by the Westminster Improvement Act, 1845, to borrow any sum of money which "they should judge necessary for the purposes of the Act." They borrowed £5,000 on the security of a bond, which contained recitals to the effect that under the above Act and the Westminster Improvement Act, 1847, they were authorized to borrow any sum of money for the purposes of the above Acts, and to secure the same by their bonds, as in the said Acts mentioned; and that in pursuance of the said Acts they had upon the day of the date of the bond, borrowed of the obligee £5,000 for enabling them to carry the purposes of the said Acts into execution. The bond having been transferred and registered by the clerk of the commissioners, it was held that a plea, that the money was not borrowed nor lent for enabling the commissioners to carry the purposes of the Act into execution, was bad, first, on the ground that the Act of 1845 enabled the commissioners to borrow any sum of money which "they should judge necessary for the purposes of the Act," and secondly, because the defendants were estopped by the recitals of the bond from denying that the money was in fact borrowed for these purposes.

[4] By section 108 of the Act they are authorized to build a town hall, council house, justices' room, with or without a police station and cells or lock-ups, or a quarter and petty sessions house, or an assize court house, with or without judges' lodgings, or a polling station, or any other building necessary or proper for any purpose of the borough.

Corporate land not to be sold, mortgaged, or alienated without approval of Treasury (sec. 109).

mortgaging, or alienating any corporate land without the approval of the Treasury. By section 109 of the Act they may, with the approval of the Treasury, dispose of any corporate land either by way of absolute sale, or by way of exchange, mortgage, charge, demise, lease or otherwise, in such manner and on such terms as the Treasury approve.

Power to dispose of corporate land with approval of Treasury (sec. 109).

Where the Treasury approve a mortgage or charge under Part V. of this Act,[1] they may, as a condition of their approval, require that the money borrowed on the security of the mortgage or charge shall be repaid, with all interest thereon, in thirty years, or any less period, and either by instalments or by means of a sinking fund, or both.

Power of Treasury to impose conditions as to repayment of money borrowed (sec. 112).

In that case the sums required for providing for the repayment of the principal and interest of the money borrowed will be by virtue of this Act a charge on all or any of the following securities, namely, the land comprised in the mortgage (without prejudice to the security thereby created), or any other corporate land, or the borough fund, or the borough or other rates legally applicable to payment of the money borrowed, or of the expenses which the money is borrowed to defray, as the Treasury direct.

Provisions as to sinking fund (sec. 113).

Where money borrowed under this part of the Act is directed to be repaid by means of a sinking fund, the council must, out of the rents and profits of the land on which, or out of the borough fund or rates on which the sums required for the sinking fund are charged under this Act, invest such sums at such times and in such Government annuities as the Treasury direct, and must also from time to time invest in like manner all dividends of those annuities.

The annuities must, in the books of the Bank of England, be placed to the account of the corporation, and in the matter of this Act or of any previous Act under which the investment is made.

The dividends of the annuities will be received and invested by such persons as the council by power of attorney under the corporate seal, from time to time appoint.

No transfer may be made of the annuities, or of any part thereof, without the consent, in writing, of the Treasury, addressed to the chief accountant of the Bank of England.

The direction, in writing, of the council, by power of attorney under the corporate seal, with the consent, in writing, of

[1] This part of the Act includes sections 105 to 132.

the Treasury, will be sufficient authority to the bank for permitting any such transfer.

If any person authorized to receive money to arise from the sale of any annuities or securities purchased or transferred under the foregoing provisions of this Part of the Act, or under any Act repealed by this Act, or any dividends thereon, or any other such money as aforesaid, appropriates the same otherwise than as directed by this Act, or by the Treasury in pursuance thereof, he will be guilty of a misdemeanour, and will be subject in respect thereof to the provisions of the Larceny Act, 1861, applicable to a person guilty of a misdemeanour under section 75 of that Act, or to the provisions of any enactment for the time being substituted for that section. Penalty for misappropriation of moneys (sec. 117). 24 & 25 Vict., c. 96, s. 75.

Every bridge which is either wholly or in part in a borough and which the borough and not the county wherein the borough is situate is legally bound to maintain or repair must, as to the whole of the bridge, if it is wholly in the borough, or as to such part only as is in the borough, be maintained, altered, widened, repaired, improved, or rebuilt, under the sole management and control of the council. Borough Bridges (sec. 119).

For that purpose the council will have all[1] the powers which the justices of a county have with respect to a county bridge, but the notices required in the case of a county bridge will not be required in the case of a borough bridge.

All expenses incurred for the purposes of this section[2] must be paid out of the borough fund or borough rate, or out of money borrowed on the security thereof.

The council, with the consent of the Treasury, may from time to time borrow on that security such sums as they deem requisite for any of those purposes, and may mortgage the borough fund and borough rate for the purpose of securing the repayment, with interest, of any money so borrowed.

The council of a borough may borrow money from the Public Works Loan Commissioners for the purpose of building, enlarging, repairing, improving, and fitting up any building which they are by this Act authorized to build, and may levy a rate or an increase of the borough rate for the purpose of paying the principal and interest of the loan, and may mortgage the rate or borough rate to the commissioners in accordance with the Power to borrow for buildings from Public Works Loan Commissioners (sec. 120).

[1] These powers will be found on reference to pages 129 and 130.

[2] *I.e.*, section 119.

38 & 39 Vict. c. 89, s. 40.

Public Works Loans Act, 1875, or any amendment thereof, in such manner and form as the commissioners direct.

Transitory provisions. Transfer of investments made before 1860 in names of trustees (sec. 125).

(1.) In the several cases following:—

(*a.*) Where before the 15th of May, 1860, the Treasury on approving of a mortgage of corporate land had required a sinking fund in names of trustees;

(*b.*) Where before the same day the Treasury, on approving of the payment to a corporation or their treasurer of purchase money for or compensation in respect of corporate land, or of money arising from sale of Government securities in which the same had been invested, had required provision for raising by investments, in names of trustees, an amount equivalent to the amount so paid;

(*c.*) Where before the same day the Treasury, on approving of a sale or alienation of corporate land, had required the investment of the proceeds in names of trustees;

The Treasury, if they have not done so before the commencement[1] of this Act, may require any securities in which any such investments had been made to be transferred into the name of the corporation in the matter of this Act, or may require any money applicable for the purposes of such sinking fund to be invested in the purchase of Government annuities, in the name of the corporation, and in the matter of this Act.

(2.) The order, in writing, of the Treasury for that purpose will be a sufficient discharge to the trustees from all claims in respect of the transfer of the securities in pursuance of the order.

(3.) The Treasury may, in the cases above mentioned, give such directions as they might give in the analogous cases in this part of the Act provided for, arising after the commencement of this Act, or as near thereto as circumstances require; and the provisions of this part of the Act will apply accordingly.

(4.) Where any such transfer has, before the commencement of this Act, been made into the name of the corporation in the matter of any Act repealed by this Act, this Act must, if the Treasury so direct, be substituted in the title of the account for that Act.

Scheme respecting mortgage debts incurred before 1860 (sec. 126).

Where in a borough any mortgage debt had been before the 15th of May, 1860, incurred, for discharge of which no adequate provision then existed, the council, if they have not so done before the commencement of this Act, may submit to

[1] That is, before the 1st of January, 1883.

the Treasury any scheme for the discharge thereof, by instalments, or a sinking fund, or both, extending over any term of years, and if the Treasury approve of the scheme, the sums required for discharge of the debt as proposed therein will, by virtue of this Act, become charged on all or any part of the corporate land, or the borough fund, or borough rate, or any other rate applicable to discharge of the debt, or on all or any of those securities, as the Treasury direct, and the provisions of this part of the Act applicable for repayment of money borrowed on mortgage by a sinking fund, or instalments, or both, except the limitation to a period of thirty years, will apply for discharge of the debt.

Consolidation of debts incurred before 1860 (sec. 127).

Where, in a borough, debts had from time to time, before the 15th of May, 1860, been incurred under Acts of Parliament, with different periods assigned for the discharge thereof, the council, if they have not done so before the commencement of this Act, may, with the consent of the Treasury, and with the previous consent, in writing, of the persons or bodies corporate to whom the debts are owing, consolidate the debts into one, and provide for the discharge of the consolidated debt by annual instalments, or a sinking fund, or both, extending over a period not exceeding thirty years, and make the instalments or payments a charge on the borough fund, or borough rate, or any other rate applicable to the discharge of the debts, or on all or any of those securities as the Treasury may direct.

Notice of application to and correspondence with Treasury (sec. 236).

Where the council intend to apply to the Treasury for their approval of any sale, loan, or other financial arrangement under this Act, notice of the intention to make the application must be fixed on the town hall[1] one month at least before the application, and a copy of the intended application must, during that month, be kept in the town clerk's office and be open[2] to public inspection.

If the Treasury either refuse their approval or grant it conditionally or under qualifications, notice of the correspondence

[1] The notice must be fixed in some conspicuous place on or near the outer door of the town hall, or, if there is no town hall, in some conspicuous place in the borough to which the notice relates (section 232).

[2] Section 233 of the Act provides that any document directed by this Act to be open to inspection, must be so open at any reasonable time during the ordinary hours of business, and without payment, unless it is otherwise expressed. If a person, having the custody of any such document, obstructs any person authorized to inspect the same, in such inspection thereof as is in this section mentioned, he will, on summary conviction, be liable to a fine not exceeding five pounds.

between the Treasury and the council must forthwith, and during one month, be fixed on the town hall,[1] and a copy of the correspondence must during that month be kept in the town clerk's office and be open to public[2] inspection.

Lunatic asylums. The Lunatic Asylums Act, 1853 (16 & 17 Vict., c. 97, ss. 47 to 52).

Municipal Corporations are empowered by sections 47 to 52 of the Lunatic Asylums Act, 1853, to borrow all or any of the moneys required for paying and defraying any moneys, costs, or expenses payable by them for any of the purposes of that Act. The effect of these sections is given on pages 131 and 132, under the head of "County Authorities."

Militia storehouses. Militia Law Amendment Act, 1854 (17 & 18 Vict., c. 105). Certain boroughs to contribute their proportion of expenses of Militia (sec. 11). Power to borrow for purpose of contribution towards expenses of Militia storehouses (sec. 18). Interest to be paid out of borough fund or borough rate. Power to reborrow. Money borrowed to be repaid in 30 years.

Under the Militia Law Amendment Act, 1854, boroughs which are not liable by law to the payment of county rates, but to which the provisions of the Act relating to the militia in other respects apply, are made liable to contribute in fair and rateable proportion to the expenses incurred for the efficient maintenance of the militia (section 11.) And in order to distribute over a term of years the proportion payable by any such borough of the expenses incurred or to be incurred by the county in purchasing, erecting, enlarging, or altering a place for militia stores, the council of the borough is empowered by section 18 of the Act, to borrow any sum of money, not exceeding the proportion so payable by them, and for the purpose of securing such money, to mortgage, with the consent of three or more Commissioners of Her Majesty's Treasury, any part of the lands, tenements, and hereditaments of such borough, and to repay the money so borrowed, and the interest thereof, according to the terms of such mortgages, out of the borough fund or borough rate, and from time to time to reborrow for the purpose of paying off any sums so borrowed. The whole of the moneys so borrowed, with the interest thereon, must be repaid within the period of thirty years from the time of first borrowing the same. Forms of mortgage and transfer are given in the Schedules to the Act.

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[1] The notice must be fixed in some conspicuous place on or near the outer door of the town hall, or, if there is no town hall, in some conspicous place in the borough to which the notice relates (section 232).

[2] Section 233 of the Act provides that any document directed by this Act to be open to inspection, must be so open at any reasonable time during the ordinary hours of business, and without payment, unless it is otherwise expressed. If a person, having the custody of any such document, obstructs any person authorized to inspect the same, in such inspection thereof as is in this section mentioned, he will, on summary conviction, be liable to a fine not exceeding five pounds.

The borrowing powers of Municipal Corporations for the purposes of reformatory and industrial schools will be found under the head of "County Authorities," at pages 132 and 133.

Reformatory and industrial schools.

Tramways.

The mayor, aldermen, and burgesses, acting by the council, are the local authority for the purposes of the Tramways Act, 1870. See section 3 and Schedule (A) to that Act And in this capacity they may obtain Provisional Orders from the Board of Trade, authorizing the construction of tramways. Their borrowing powers for the purposes of any such Provisional Order will be found at pages 112 and 113. The local rate in the case of a borough will be the borough fund or other property applicable to the purposes of a borough rate or the borough rate. See section 3 and Schedule (A) to the Act.

The Tramways Act, 1870 (33 & 34 Vict., c. 78).

Power to obtain Provisional Orders (sec. 4).

The mayor, aldermen, and burgesses, acting by the council, in any borough which is not assessed to the county rate of any county by the justices of such county, are constituted by section 67 of the Explosives Act, 1875, the local authority for the purposes of that Act, except as regards any harbour within the jurisdiction of a harbour authority; and by section 68 of the same Act the council of any borough which is assessed to the county rate of any county by the justices of such county may, by order of a Secretary of State, made upon the application of such council, and published in the *London Gazette*, be declared to be a local authority for the purposes of this Act, and thereupon will become a local authority accordingly for such part of their borough as is not included in any harbour. By section 70 of the same Act the expenses incurred by any local authority in the execution of the Act are directed to be paid out of the local rate, which in a borough is declared to be the borough fund or borough rate. By section 72 of the Act any local authority other than justices in petty sessions, is empowered in certain cases with the license of the Secretary of State, to provide a magazine for the keeping of explosives, and to borrow on the security of the local rate the amount required for the purpose of acquiring any land or right over land for any magazine, or for acquiring or building any magazine in pursuance of this section. Any such loan is required to be made with the approval, in the case of the council of any borough, of the Treasury, in the case of improvement commissioners, of the Local Government Board, and in the case of a harbour authority, of the Board of Trade.

Magazines for storage of explosives.

The Explosives Act, 1875 (38 Vict., c. 17).

Local authority for purposes of Act (sec. 67).

How expenses to be defrayed (sec. 70).

Provision of magazines by local authority (sec. 72).

Borrowing powers for this purpose.

Approval of central departments necessary.

Incorporation of clauses of Commissioners Clauses Act, 1847 relating to mortgages.

For the purpose of such borrowing the clauses[1] of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, are incorporated with this Act; and in the construction of those clauses for the purposes of this Act, this Act is to be deemed the Special Act, and the local authority which is borrowing is to be deemed to be the commissioners.

Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict., c. 49). Local authority for purposes of Act (sec. 9). How expenses defrayed (sec. 46). Borrowing powers under Act (sec. 49).

By section 9 of the Contagious Diseases (Animals) Act, 1878, the mayor, aldermen, and burgesses, acting by the council, are constituted the local authority for the purposes of that Act in municipal boroughs, and by section 46 of the Act the expenses of local authorities are directed to be defrayed out of the local rate, which by section 9 and the Second Schedule to the Act is declared to be in such boroughs the borough rate with the borough fund. The borrowing powers of Municipal Corporations under the Act are contained in section 49, and will be found above at pages 115 and 116.

Urban and Rural Sanitary Authorities.

The Public Health Act, 1875 (38 & 39 Vict., c. 55). Power to borrow and reborrow on credit of rates (sec. 233).

Section 233 of the Public Health Act, 1875, provides that any urban or rural sanitary authority, may, with the sanction of the Local Government Board, for the purposes of defraying any costs, charges, and expenses incurred, or to be incurred in the execution of the Sanitary[2] Acts, or this[3] Act, or for the purpose of discharging any loans contracted under the Sanitary Acts, or

[1] These clauses will be found in the Appendix (1).

[2] The Sanitary Acts, the majority of which are now repealed, are defined by section 4 of the Public Health Act, 1875, as meaning the following Acts, viz.:—

The Bakehouse Regulation Act, 1863 (26 & 27 Vict., c. 40).

The Artizans' and Labourers' Dwellings Act, 1868 (31 & 32 Vict., c. 130.

The Baths and Washhouses Acts (9 & 10 Vict., c. 74, and 10 & 11 Vict., c. 61).

The Labouring Classes Lodging Houses Act, 1851 (14 & 15 Vict., c. 34); the Labouring Classes Dwelling Houses Act, 1866 (29 & 30 Vict., c. 28); and the Labouring Classes Dwelling Houses Act, 1867 (30 & 31 Vict., c. 28); and the Acts mentioned in Part I. of Schedule V. of this Act.

The following are the Acts so mentioned, viz.:—

The Public Health Act, 1848 (11 & 12 Vict., c. 63).

The Common Lodging Houses Act, 1851 (14 & 15 Vict., c. 28).

The Common Lodging Houses Act, 1853 (16 & 17 Vict., c. 41).

The Diseases Prevention Act, 1855 (18 & 19 Vict., c. 116).

The Nuisances Removal Act for England, 1855 (18 & 19 Vict., c. 121).

The Local Government Act, 1858 (21 & 22 Vict., c. 98).

The Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases (23 & 24 Vict., c. 77).

this Act, borrow, or reborrow, and take up at interest, any sums of money necessary for defraying any such costs, charges, and expenses, or for defraying any such loans as aforesaid.

The Local Government Act, 1858, Amendment Act, 1861 (24 & 25 Vict., c. 61).

The Local Government Act Amendment Act, 1862 (26 & 27 Vict., c. 17).

The Nuisances Removal Act for England (Amendment) Act, 1863 (26 & 27 Vict., c. 117).

The Sewage Utilization Act, 1865 (28 & 29 Vict., c. 75)

The Nuisances Removal (No. 1) Act, 1866 (29 & 30 Vict., c. 41).

The Sanitary Act, 1866 (29 & 30 Vict., c. 90).

The Sewage Utilization Act, 1867 (30 & 31 Vict., c. 113).

The Sanitary Act, 1868 (31 & 32 Vict., c. 115).

The Sanitary Loans Act, 1869 (32 & 33 Vict., c. 100).

The Sanitary Act, 1870 (33 & 34 Vict., c. 53).

The Public Health Act, 1872 (35 & 36 Vict., c. 79).

The Sanitary Law Amendment Act, 1874 (37 & 38 Vict., c. 89).

Since the passing of the Public Health Act, 1875, the Baths and Washhouses Acts have been amended by the Baths and Washhouses Act, 1878 (41 Vict., c. 14), section 2 of which provides that such Acts as amended by the Statute Law Revision Act, 1875, and by that Act and the Public Health Act, 1875, shall be construed and carried into effect as one Act. Section 9 of this Act declares that the provisions of sections 21, 22, and 23 of the principal Act (*i.e.* the 9 & 10 Vict., c. 74), authorizing the borrowing and advancement of money for the purposes of that Act, shall be taken to authorize the borrowing and advancement of money in like manner for the purposes of this Act; and that the approval of the Local Government Board shall be substituted for that of the Commissioners of Her Majesty's Treasury in all cases, where money is borrowed for the purposes of the principal Act, or this Act.

The Artizans' and Labourers' Dwellings Act, 1868, has also been amended by the Artizans' and Labourers' Dwellings Act (1868) Amendment Act, 1879 (42 & 43 Vict., c. 64), section 2 of which provides that the two Acts are to be construed together as one Act. Section 22 of this Act purports to enable the Public Works Loan Commissioners to lend money to any local authority for the purposes of this Act, subject to certain regulations, which will be found set out on pages 77 and 78, so that the period for the repayment of money so borrowed of the commissioners may not exceed seven years.

[3] The Public Health Act, 1875 has been amended by the Public Health (Water) Act, 1878 (41 & 42 Vict., c. 25), which confers no new powers of borrowing on local authorities, and also by the Public Health (Interments) Act, 1879 (42 & 43 Vict., c. 31). Each of these Acts is to be construed as one with the Public Health Act, 1875. The Public Health (Interments) Act, 1879, enables every urban, and every rural sanitary authority to acquire, construct, and maintain a cemetery for the district, and as the Act is to be construed as one with the Public Health Act, 1875, the borrowing powers of these authorities under that Act will be available for the purpose of paying for the purchase of the requisite land, for draining and inclosing the site, and for rendering it otherwise suitable for a cemetery From the Eleventh Annual Report of the Local Government Board, it would appear that six urban and seven rural sanitary authorities availed themselves of these powers for the purpose of providing cemeteries for their districts during the year 1881, the total amount sanctioned for this purpose being £23,063. With regard to the borrowing powers of urban sanitary authorities, who obtain provisional orders under the Gas and Water Facilities Acts in pursuance of section 161 of the Public Health Act 1875, see below in Chapter V.

Fund or rate to be charged by urban sanitary authority.

An urban sanitary authority may borrow, or reborrow any such sums on the credit of any fund, or all or any rates or rate out of which they are authorized to defray expenses incurred by them in the execution of this Act; and for the purpose of securing the repayment of any sums so borrowed with interest thereon, they may mortgage to the persons, by or on behalf of whom such sums are advanced, any such fund, or rates or rate.

Fund or rate to be charged by rural sanitary authority.

A rural sanitary authority may borrow, or reborrow any such sums, if applied, or intended to be applied to general [1] expenses of such authority, on the credit of the common fund, out of which such expenses are payable, and if applied, or intended to be applied to special[2] expenses of such authority, on the credit of any rate or rates, out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate or rates.

Regulations as to exercise of borrowing powers (sec. 234).

The exercise of the powers of borrowing conferred by this Act are, by section 234, made subject to the following regulations, namely:—

(1.) Money may not be borrowed except for permanent works (including under this expression any works of which the cost ought, in the opinion of the Local Government Board, to be spread over a term of years):

Limit of borrowing power.

(2.) The sum borrowed may not at any time exceed, with the balances of all the outstanding loans contracted by the sanitary authority under the Sanitary Acts and this Act, in the whole

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[1] General expenses are payable out of a common fund to be raised out of the poor rate of the parishes in the district, according to the rateable value of each contributory place, in manner in this Act mentioned.

Special expenses are a separate charge on each contributory place.

[2] Special expenses are defined by section 229 of the Act as being the expenses of the construction, maintenance, and cleansing of sewers in any contributory place within the district, the providing of a supply of water to any such place, and maintaining any necessary works for that purpose, if, and so far as the expenses of such supply and works are not defrayed out of water rates, or rates under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural sanitary authority in trust for any contributory place, and all other expenses incurred or payable by the rural sanitary authority, in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

All expenses incurred by a rural sanitary authority under the Act, other than special expenses, and expenses chargeable on owners and occupiers under the Act, are general expenses.

the assessable[1] value for two years of the premises assessable within the district in respect of which such money may be borrowed:

(3.) Where the sum proposed to be borrowed, with such balances, if any, would exceed the assessable value for one year of such premises, the Local Government Board may not give their sanction to such loan, until one of their inspectors has held a local enquiry and reported to that board: Where indebtedness exceeds one year's rateable value.

(4.) The money may be borrowed for such time, not exceeding[2] 60 years, as the sanitary authority, with the sanction of the Local Government Board, determine in each case; and the sanitary authority must either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they must in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other[3] Government securities such sum as will be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned: Period and mode of repayment.

(5.) A sanitary authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or

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[1] It is usually considered that these words are to be interpreted as meaning the assessable value of the premises for the purposes of the rate on the security of which the money is to be borrowed. For example: when the rate is a general district rate, the assessable value of the properties enumerated in section 211 (1) (*b*) of this Act will be one-fourth of the amount of the assessable value of such properties for the purposes of the poor rate. And the usual practice adopted to determine what is two years' assessable value has been to take the current year's assessable value and double it, and not to take the assessable values of the present and past year, and add them together.

[2] These loans will apparently not remain a charge on the rates when this period has expired. See *Reg.* v. *Churchwardens of Wigan and others*, Appendix (6).

[3] Presumably, although the local authority are not expressly forbidden to invest the sinking fund in securities other than Exchequer bills or other Government securities, they will not be authorized to invest it in securities in which trustees are by the law for the time being authorized to invest trust funds in cases where the investments are not expressly forbidden by the instrument creating the trust. It therefore becomes of some importance to determine what are "other Government securities" within the meaning of the above enactment. Bank stock is not a Government security, see *Howe* v. *the Earl of Dartmouth* (7 Ves. 137). While the East India Company's Charter was in force, East India Stock was not a Government security, *Brown* v. *Brown* (4 Kay and J. 704), notwithstanding the 3 & 4 Will. IV., c. 85; but the present East India Stock would probably be held to be a Government security, having regard to the remarks of Vice-Chancellor Wood in that case. See, however, *Burnie* v. *Gelting* (2 Coll. 324), where Vice-Chancellor Bruce held that Greek bonds,

towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or part of the sinking fund so applied:

Reborrowing.

(6.) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed must not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and must in no case be extended beyond the period of sixty years from the date of the original loan.

Loans for private improvement expenses.

The same section provides that where any urban sanitary authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall[1] be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money

although guaranteed by this country, and although the interest thereon might be payable in the first instance in London, were not comprehended in the words "in 3 per cent. consols or other Government securities in England." The Vice-Chancellor was careful, however, to state that he founded his opinion upon the construction of the will in which these words occurred, without saying that in other wills the words "Government securities" might not extend to bonds of this description. In *ex parte Chaplin* (3 You. & C. 397), Baron Alderson held that the words "Government security or securities," in section 3 of the 1 & 2 Vict., c. 117, would not apply even to Exchequer bills, but in *ex parte the South Eastern Railway Company* (9 Jur. 650), the Vice-Chancellor of England made an order under the same section for investment in Exchequer bills, and observed that the court was in the habit of making such orders every day. Bank annuities purchased by a local board under this section (234) as an investment of their sinking fund, will vest in the corporation of the borough, if the district is constituted a borough after the investment. See *Mayor, &c. of Hyde* v. *the Governor and Company of the Bank of England* (46 L. T., N.S. 910; W.R., 790), where it was contended on behalf of the bank, that the bank annuities had not vested in the corporation, and that the bank could not transfer them to the corporation.

[1] This provision is so indefinite that it seems doubtful what legal obligation arises under it. It is, however, manifestly the duty of the sanitary authority to endeavour to carry out its intention, which is, that loans raised for works of private improvement, or for works for which a portion of the district only is liable to pay, shall not become in any year a burden on the general rates of the district. As regards loans for private improvement works, the best means of effecting this object seems to be to carry to a separate account all moneys recovered from the owners or occupiers in respect of such works, and so long as any principal money is owing in respect of such loans, either to apply the moneys so recovered in payment of the principal and interest of such loans, or to invest and apply them as sinking funds for the discharge of such loans.

so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

Power to borrow on credit of sewage land and plant (sec. 235).

Section 235 of the same Act enables urban and rural sanitary authorities to borrow on the credit of any lands, works, or other property, of which they may be possessed for the purposes of disposal of sewage pursuant to the Act, and to mortgage the same to any person advancing such moneys in the same manner in all respects as if they were the absolute owner, both at law and in equity, of the lands, works, or other property so mortgaged.

Application of moneys borrowed.

The moneys so borrowed must be applied for purposes for which moneys may be borrowed under this Act; but it will not be in any way incumbent on the mortgagees to see to the application of such moneys, nor will they be responsible for any misapplication thereof.

To what extent these powers of borrowing to be distinct from general borrowing powers.

The powers of borrowing conferred by the section are, when the sums borrowed do not exceed three-fourths of the purchase money of such lands (but not otherwise), to be deemed to be distinct[1] from and in addition to the general borrowing powers conferred on urban and rural sanitary authorities by the Act; and any such authority is empowered by this section to pay out of any rates leviable by them for the purposes of this Act the interest on any moneys borrowed by such authority in pursuance of this section.

Form of mortgage (sec. 236).

Section 236 provides that every mortgage authorized to be made under the Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the sanitary authority, and may be made according to the form contained in Schedule IV, to this Act, or to the like effect.

The following is the form of mortgage thus referred to :—

Form of Mortgage of Rates.[2]

By virtue of the Public Health Act, 1875, we the , Schedule IV. Form H.
being the local authority under that Act for the district of

[1] This has been generally considered to enable the authority to borrow under this section to the extent of three-fourths of the purchase money of the lands, without any of the restrictions imposed by section 234, notwithstanding that such restrictions are thereby imposed on "the exercise of the powers of borrowing conferred by this Act."

[2] It will be observed that the form is only applicable to a mortgage of rates, and therefore that a mortgage of sewage lands, &c., evidently cannot be made in this form, notwithstanding that section 236 expressly states that every mortgage made under the Act may be made in this form.

, in consideration of the sum of , paid to the treasurer of the said district by A. B., of , for the purposes of the said Act, do grant and assign unto the said A. B., his executors, administrators, and assigns, such proportion[1] of the rates arising or accruing by virtue of the said Act from (*the rates mortgaged*) as the said sum of doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said rates, to hold to the said A. B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same shall be fully paid and satisfied. And it is hereby declared that the said principal sum shall be repaid on the day of at (*place of payment*).

Dated this day of , 18

(*To be sealed with the common seal of the local authority.*)

Registration of mortgages (sec. 237).

Section 237 provides that there shall be kept at the office of the sanitary authority a register of the mortgages[2] of each rate, and that within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and descriptions of the parties thereto, as stated in the deed. Every such register must be open to public inspection during office hours without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, will be liable to a penalty not exceeding five pounds.

Transfer of mortgages (sec. 238).

By section 238 any mortgagee or other person entitled to any mortgage under the Act is empowered to transfer his estate and interest therein to any other person by deed duly stamped, truly state its date and the consideration for the transfer; and such transfers may be according to the form contained in Schedule IV. to the Act, or to the like effect.

The following is the form thus referred to :—

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[1] No mortgage made in this form can have priority over any other mortgage made in the same form. But it is not clear that mortgages may not be made under the Act in such a form as to give priority according to the date of the mortgage. On this point, see pages 4 to 6.

[2] It will be observed that it is only mortgages of rates that are required to be entered in these registers, and not mortgages of sewage lands, &c., under section 235. The same remark applies to the registration of transfers of mortgages. See section 238.

FORM OF TRANSFER OF MORTGAGE.

I, A. B., of , in consideration of the sum of paid to me by C. D., of do hereby transfer to the said C. D., his executors, administrators, and assigns, a certain mortgage, bearing date the day of , and made by the local authority under the Public Health Act, 1875, for the district of , for securing the sum of and interest thereon at per centum per annum (*or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word* "*assigns*," the within security), and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal this day 18 .

A. B. (L.S.)

Schedule IV., Form I.

Section 238 also provides that there shall be kept at the office of the sanitary authority a register[1] of the transfers of mortgage charged on each rate, and that within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the sanitary authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in the register of its date, and of the names and descriptions of the parties thereto, as stated in the transfer; and that until such entry is made, the local authority shall not be in any manner responsible to the transferee.

Registration of transfers (sec. 238).

The same section further provides that on the registration of any transfer, the transferee, his executors or administrators, shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and that any transferee may, in like manner, transfer his estate and interest in any such mortgage; and that no person, except the last transferee, his executors or administrators, shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk to the sanitary authority wilfully neglects or refuses to make in the register any entry by this section re-

[1] Is this register to be a different register from the register of mortgages referred to in section 237? If so, there is no provision similar to that in section 237 requiring it to be open to public inspection during office hours without fee or reward.

quired to be made, he will be liable to a penalty not exceeding twenty pounds.

Appointment of receiver in certain cases (sec. 239).

Section 239 of the same Act provides that if, at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made thereunder, and after demand, in writing, the same is not paid, the mortgagee, or other person entitled thereto, may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a Court of Summary Jurisdiction, and that such Court may, after hearing the parties, appoint in writing, under their hands and seals, some person to collect and receive the whole or a competent part of the rates liable[1] to the payment of the principal or interest in respect of which the application is made, until such principal and interest or both, as the case may be, together with the costs of the application and of collection are fully paid.

The same section further provides that "on such appointment being made, all such rates, or such competent part thereof as aforesaid, shall be paid to the person aforesaid, and, when so paid, shall be so[2] much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them."

No application for the appointment of a receiver under this section may be entertained, unless the sum or sums due, and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as mentioned in the section, moneys collectively amounting to that sum.

Appointment of receiver where a local board has lapsed, Schedule II., Part II., Rule 1.

Where any local board lapses through its members ceasing to hold office, and failing to elect new members in manner provided by the Public Health Act, it is provided by Rule 1 of

[1] No power is given to the receiver to make the rate except in cases where a local board has lapsed, as to which, see below. If the sanitary authority neglect to make the necessary rate, they must be compelled to make it by a *mandamus*. See *Drewry* v. *Barnes* (3 Russ. 94), and the cases cited at pages 38 and 39 of the present work.

[2] It is not clear what will be the effect of this provision in the case where the receiver is not appointed in respect of all of the mortgages of the local authority. Is he in such a case to hold the money paid to him in trust for all the mortgagees, or only in trust for those on whose behalf the application is made? In the former case, what is he to do with the money which he holds in trust for mortgagees whose money has not yet become due or payable?

Part II. of Schedule II. of that Act, that any mortgagee or other person entitled[1] to any principal or interest on any mortgage of rates made by such local board may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to any Court of Summary Jurisdiction; and that such Court, may by writing under their hands, appoint a person to make, levy and collect the whole or a competent part of the rates liable to the payment of the principal and interest, in respect of which the application is made, and to recover all arrears of such rates until such principal and interest, together with the costs of the application and of collection, are paid; and on such appointment being made, all such rates, competent part thereof, and arrears, must be paid to the receiver so appointed, and must be rateably apportioned[2] by him among the mortgagees or other persons entitled to the same.

Rent-charges granted in respect of advances made for works of private improvement (sec. 240).

Where any person has advanced money for any expenses which by the Public Health Act are, or by the sanitary authority, may be declared to be private improvement expenses, the sanitary authority, on being satisfied by the report of their surveyor, or otherwise, that the money advanced by such person has been duly expended, are empowered by section 240 of the Act to issue a grant[3] in the form in Schedule IV. to the Act, to such person of a yearly rent charge issuable out of the premises in respect whereof such advance has been made, or out of such part thereof to be specified in such grant, as the sanitary authority may think proper and sufficient.[4]

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[1] In the event of a local board or other local authority lapsing, before the time when the principal becomes due, it is possible that the security would be held to become immediately enforceable in the same manner that similar securities, when issued by a company, do, when the winding up of the company commences, as to which, see *In re Panama, New Zealand and Australian Royal Mail Company* (L. R. 5 Ch. 318), and *Hodson* v. *Tea Company* (L.R. 14 Ch. D. 859).

[2] As to this provision, see note 2 on page 150.

[3] These words would seem to indicate that the rent-charge must be in this form and in no other; but see section 317 of the same Act, which provides that the forms contained in Schedule IV., or forms to the like effect, varied as circumstances may require, may be used, and shall be sufficient for all purposes.

[4] Where money has been borrowed repayable by instalments, or otherwise by a charge on land or other property, and the money due on such charge is in arrear, the Chancery Division will not confine itself to the remedies given to the lenders by the statute, but will give the owners of the charge the ordinary remedies, which they would be entitled to, if the property belonged to an ordinary individual. See *The Scottish Widows' Fund* v. *Craig* (L. R. 20 Ch. D. 208, 51 L. J. 363), where a terminable rent-

This form thus referred to is as follows:—

FORM OF RENT-CHARGE.

Schedule IV., Form K.

By virtue of the Public Health Act, 1875, we, the being the local authority under that Act for the district of , do hereby declare, and absolutely order that the inheritance of the dwelling-house, shop, lands, and other premises (*as the case may be*), situated in street, in the parish of , within the said district, and now in the occupation of , shall be absolutely charged with the sum of pounds, paid by , of , for the improvement by drainage and water supply (*as the case may be*) of the same dwelling house, shop, lands, and premises (*as the case may be*) together with interest for the same from the date hereof, at[1] pounds per centum per annum, until full payment thereof; and also all costs incurred by the said , his executors, administrators, or assigns under their security shall be fully paid and satisfied; and we hereby further declare that the said principal and interest money shall be paid, and payable by the owner or occupier of the said premises to the said , his executors, administrators and assigns in manner following, that is to say, the interest on such principal sum of pounds, or on so much thereof as shall from time to time remain due and payable under this order, shall be paid and payable by equal half-yearly payments, whilst payable on the day of and the day of in every year, the first payment thereof to be made on the day of next, and such principal sum of pounds shall be paid and payable by equal annual instalments on the day of in each of the next succeeding years, towards the discharge of the same principal sum, until the whole shall be fully satisfied and discharged.

(*To be sealed with the common seal of the local authority*).

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charge created under the General Land Drainage and Improvement Company's Act of 1849 (12 & 13 Vict., c. xci.) was in arrear, and an order was made by Vice-Chancellor Hall for a sale of so much of the property as might be considered necessary to raise the arrears then due, with liberty to apply to raise any further arrears, which might thereafter from time to time accrue and become due.

[1] The rate of interest must not exceed £6 per cent. See below, page 153.

The Act further provides that such rent-charge shall be personal estate, and begin to accrue from the day of completion of the works, on which the money advanced has been expended, and shall be payable by equal half-yearly[1] payments during a term not exceeding thirty years, in such manner that the whole sum advanced, with the costs of preparing the said grant, together with interest thereon respectively, at a rate not exceeding six pounds per centum per annum on the sum, from time to time remaining unpaid, shall be repaid at the end of the said term.

The provisions[2] of the Act with respect to deduction from the rent of a proportion of private improvement rates, and with respect to the redemption of private improvement rates are made *mutatis mutandis* to apply to rent-charges granted under this section.

Registration of rent-charges (sec. 241).

Rent-charges issued in pursuance of this Act and transfers thereof, must be registered in the same manner respectively as mortgages,[3] and transfers of mortgages are required to be registered under the provisions of the Act.

Power of Public Works Loan Commissioners to lend to sanitary authorities (sec. 242).

The Public Works Loan Commissioners[4] may, if they see fit, on the application of any sanitary authority, make any loan to such authority for any of the purposes of this Act, on the security of any fund or rate applicable to any of the purposes of this Act, without requiring any further or other security.

Power of Public Works Loan Commissioners to lend to sanitary authorities at reduced rate of interest for 50 years (sec 243)

The Public Works Loan Commissioners may, on the application of any sanitary authority, and on the recommendation of the Local Government Board, make any loan to such authority in pursuance of any powers[5] of borrowing conferred by this Act, whether for works already executed or yet to be executed, on the security of any fund or rate applicable to any of the purposes of the Act, and without requiring any further or other security, such loan[6] to be repaid within a period not

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[1] It will be observed that the form of rent-charge contemplates that the interest shall be paid half-yearly, but that the principal shall be repaid by annual instalments.

[2] See sections 214 and 215 of the Act.

[3] See pages 148 and 149.

[4] With respect to this and the following section, see Part III. of this work, pages 76 to 100, as to advances by the Public Works Loan Commissioners.

[5] As to the works for which the commissioners will advance money under this section, see page 81.

[6] As to the periods for which these advances will be made and the rates of interest chargeable thereon, see pages 83 to 85.

exceeding fifty years, and to bear interest at the rate of three and a half per centum per annum, or such other rate as may, in the judgment of the Commissioners of the Treasury, be necessary, in order to enable the loan to be made without loss to the Exchequer. This power is subject to the following provisos, viz. :—

(1.) That in determining the time when a loan under this section is to be repayable, the Local Government Board are to have regard to the probable duration and continuing validity of the works in respect of which the same is required.

(2.) That this section is not to extend to any loan required for the purpose of defraying expenses incurred by the Local Government Board in the performance of the duty of a defaulting sanitary authority after the passing of the Public Health Act, 1872.

In the case of a loan made before the passing of the Public Health Act, 1872, to any sanitary authority in pursuance of any powers conferred by the Sanitary Acts, the Public Works Loan Commissioners may reduce the interest payable thereon to the rate of not less than three and a half per centum per annum.[1]

Costs of Provisional Orders (sec. 298).

Section 298 of the same Act enables sanitary authorities, if it be thought expedient by the Local Government Board, to contract loans for the purpose of defraying the reasonable costs of such authorities in respect of Provisional Orders made in pursuance of the Act, and of the enquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, and such costs are to be deemed to be expenses properly incurred for purposes of the Act by the sanitary authority interested in or affected by such Provisional Orders, and are to be paid accordingly.

Loans raised for the purpose of defraying expenses of a defaulting authority (secs. 300 to 302).

In cases[2] where a sanitary authority have made default, and the Local Government Board have appointed a person under section 299 of this Act to perform the duty of the defaulting authority, the Local Government Board may from time to time

[1] It is not the practice of the commissioners to avail themselves of this power. See pages 82 and 83.

[2] These cases are not likely to arise often in practice. Of late years the Local Government Board, in cases of default, have enforced the performance of the duty of the defaulting authority by a writ of *mandamus* under section 299, in preference to appointing a person to perform the duty.

certify[1] the amount of any loan required to be raised for the purpose of defraying any expenses that have been incurred, or are estimated as about to be incurred by such person, and the Public Works Loan Commissioners may advance[2] to the Local Government Board, or to any person so appointed the amount of the loan so certified to be required on the security of any rate applicable to the payment of any expenses properly incurred by the defaulting authority, without requiring any other security; and the Local Government Board or any person so appointed, may, by any instrument duly executed, charge such rate with the repayment of the principal and interest due in respect of such loan, and every such charge will have the same effect as if the defaulting authority were empowered to raise such loan on the security of such rate, and had duly executed an instrument charging the same on such rate (section 301).

Any principal money or interest for the time being due in respect of any loan under the Act made for the payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting authority, is to be taken to be a debt due from such authority, and in addition to any other remedies may be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this part of the Act (section 302).

The provisions thus referred to enable the Local Government Board, if the defaulting authority refuses to pay the debt due, for a period of fourteen days after demand, to empower any person to levy the same by and out of any rate applicable to the payment of any expenses of the authority. Any person so empowered will have the same powers of levying the rate, and requiring all officers of the authority to pay over any moneys in their hands, as the authority would have in the case of expenses legally payable out of the rate (section 300).

Urban sanitary authorities of districts containing, according to the last census for the time being, a population[3] of 25,000

The Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1882.

[1] This certificate is made by section 301 conclusive as to all matters to which it relates.

[2] The money may not, however, be advanced at a reduced rate of interest, see page 153.

[3] These powers are also possessed by the urban sanitary authorities of Whitehaven, Jarrow, and Over Darwen, although these districts contain a smaller population than 25,000. See the Whitehaven Harbour and Town Improvement Act, 1876 (39 & 40 Vict., c. cv., s. 45), the Jarrow Improvement Act, 1878 (41 & 42 Vict., c. cxx., s. 53), and the Over Darwen Improvement Act, 1879 (42 & 43 Vict., c. ccii., s. 91).

and upwards, possess some important powers of borrowing under the Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1882. Section 22 of the former of these Acts empowers such authorities for the purposes of the Act to borrow any moneys on the security of any lands, houses, or other property acquired by them under the Act, and to mortgage such lands, houses, or other property to any person advancing such moneys, and provides that it should not be in any way incumbent on the mortgagees to see to the application of such moneys, nor shall they be responsible for the misapplication thereof.

Artizans' and Labourers' Dwellings Improvement Act, 1875 (38 & 39 Vict., c. 36, s. 22). Power to borrow on security of lands.

Every urban sanitary authority borrowing on the security of such lands, houses, or other property, may pay out of the local rates (*i.e.* out of all or any rates or rate levied throughout the district of such authority, and out of which such authority is authorized to pay any expenses incurred under the Sanitary Acts or the Public Health Act, 1875) the interest on any moneys so borrowed by them, and may execute such instruments by way of security, and with such power of sale and other conditions as they think expedient.

Power to borrow on the credit of the local rates.

Urban sanitary authorities possessed of the above powers have also the same power of borrowing on the credit of the local rates, such sums of money as they may require for the purposes of this Act, as they have under[1] the Public Health Act, 1875, for sanitary purposes.

Power to Public Works Loan Commissioners to make advances at reduced rates of interest for fifty years.

The Public Works Loan Commissioners, acting with the consent of the Treasury may, on the recommendation of the Local Government Board, lend to any urban sanitary authority any money required by them for the purposes of this Act on the security of the local rates. Such loan must be repaid within such period not exceeding fifty years, as may be recommended by the Local Government Board, and will bear interest at the rate of three and a half per cent. per annum, or such higher rate as may, in the judgment of the Treasury, be necessary to enable the loan to be made without loss to the Exchequer.

Tramways. The Tramways Act, 1870 (33 & 34 Vict., c. 78).

In places not included in the City of London, the Metropolis, or any municipal borough, the Improvement Commissioners, if any, and where there are none, the local board, if

[1] The powers originally given to urban sanitary authorities by this Act of borrowing on the credit of the local rates, were those contained in section 40 of the Public Health Act, 1872. This section has, however, since been repealed by the Public Health Act, 1875, section 313 of which has brought about the effect above stated.

there is one, are the local authority for the purposes of the Tramways Act, 1870. See section 3 and Schedule (A) to that Act. And in this capacity they may obtain Provisional Orders from the Board of Trade, authorizing the construction of tramways. These borrowing powers for the purposes of any such Provisional Order will be found in pages 112 and 113. The local rate in the case of Improvement Commissioners, will be any rate leviable by them, or other funds applicable by them to the purposes of improving, cleansing, or paving the town, and in the case of local boards, the general district rate. See section 3 and Schedule (A) to the Act.

Improvement Commissioners and local boards are local authority (sec. 3 and Schedule (A). Borrowing powers.

Under section 68 of the Explosives Act, 1875, the commissioners of any improvement district may, by order of the Secretary of State, made upon the application of such commissioners, and published in the *London Gazette*, be declared to be a local authority for the purposes of the Act, and thereupon will become a local authority accordingly for such part of their district, as is not included in any harbour. By section 70 of the same Act, the expenses incurred by any local authority in the execution of the Act, are directed to be paid out of the local rate, which in an improvement district is declared to be any fund, moneys, or rate applicable or leviable by the Improvement Commissioners for any purposes of improvement within their district. The powers of Improvement Commissioners, when constituted a local authority under this Act to provide magazines for the keeping of explosives, and to borrow on the security of the local rate the amount required for the purpose of acquiring any land for any magazine, or for acquiring or building any magazine in pursuance of this section, are contained in section 72 of the Act, and will be found in pages 141 and 142 under the head of "Municipal Corporations."

Magazines for storage of explosives. The Explosives Act, 1875 (88 Vict., c. 17). Improvement commissioners may be constituted local authority (sec. 68).

How expenses to be defrayed (sec. 70).

Provision of magazines and borrowing of money for this purpose (sec. 72).

By section 9 of the Contagious Diseases (Animals) Act, 1878, the local board of Oxford are constituted a local authority for the purposes of that Act; and by section 46 of the Act, their expenses are directed to be defrayed out of the local rate, which by section 9, and the Second Schedule to the Act is declared to be in the district of this local board, the rate leviable by the local board.

Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict., c. 49). Local Board of Oxford (sec. 9), how expenses to be defrayed (sec. 46).

The borrowing powers of local authorities under the Act are contained in section 49, and will be found above at pages 115 and 116.

Borrowing powers under Act (sec. 49).

By section 31 of the Electric Lighting Act, 1882, urban and rural sanitary authorities are constituted local authorities for the

The Electric Lighting Act, 1882 (45 & 46 Vict., c. 56).

purposes of that Act; and in cases where they are authorized to supply electricity by any license, order, or special Act, they are empowered by section 8 and the Schedule to that Act, from time to time to borrow money, with the consent of the Local Government Board, and subject to the provisions and restrictions contained in sections[1] 233, 234, and 236 to 239, both inclusive, of the Public Health Act, 1875, on the security (1) in the case of urban sanitary authorities of the fund or rate applicable to the general purposes of the Public Health Act, in the district, or any other fund or rate applicable to lighting under any local Act; and (2) in the case of rural sanitary authorities, of the rate or rates out of which special expenses incurred in respect of the contributory place or places comprised within the area of supply are payable under the Public Health Act.

Power to borrow for electric lighting (sec. 8 and Schedule).

Joint Boards and Port Sanitary Authorities.

The Public Health Act, 1875 (38 & 39 Vict., c. 55, s. 244).

Joint Boards and Port Sanitary Authorities, under the Public Health Act, 1875, for the purposes of their constitution have, under section 244 of that Act, like powers[2] of borrowing on the credit of any fund or rate applicable by them to the purposes of that Act, or on the credit of sewage land and plant, as are by that Act conferred on urban and rural sanitary authorities, and in the exercise of those powers are subject to the like restrictions.[2] And the Public Works Loan Commissioners may make any loan to a joint board or port sanitary authority which they may make to an urban or rural sanitary authority under that Act.

Boards of Guardians.[3]

The Poor Law Amendment Act, 1834 (4 & 5 Will. IV., c. 76). Power of Local Government Board to require workhouses* to be provided (sec. 23).

Section 23 of the Poor Law Amendment Act, 1834 (4 & 5 Will. IV., c. 76), enables the Poor Law Commissioners[4] from time to time, when they may see fit, by any writing under their

[1] The provisions of these sections are set out above, on pages 142 to 150.

[2] As to these powers and restrictions, see above in pages 142 to 145.

[3] The expression "guardian" is defined by section 109 of the Poor Law Amendment Act, 1834, as meaning and including "any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of the poor, and in the distribution or ordering of the relief of the poor from the poor rate und r any general or local Act of Parliament."

[4] Now the Local Government Board. See 10 & 11 Vict., c. 109, s. 10, 12 & 13 Vict., c. 103, s. 21, and section 2 of the Local Government Board Act, 1871 (34 & 35 Vict., c. 70).

* "Workhouse," is defined by the same section as meaning and including "any house in which the poor of any parish or union shall be lodged and maintained, or any house or building purchased, erected, hired or used at the

hands and seal, by and with the consent,[1] in writing, of a majority of the guardians of any union,[2] or with the consent[3] of a majority of the ratepayers and owners of property entitled to vote in manner therein-after prescribed in any parish,[4] such last mentioned majority to be ascertained in manner provided by this Act, to order and direct the overseers or guardians

expense of the poor rate, by any parish, vestry, guardian, or overseer, for the reception, employment, classification, or relief of any poor person therein at the expense of such parish." As the expression "casual ward" is defined by section 3 of the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict., c. 108), as meaning "any ward or wards, buildings or premises, set apart or provided for the reception and relief of destitute wayfarers and wanderers," and the same section provides that unless the context otherwise requires, words in that Act shall have the same meaning as in the Poor Law Amendment Act, 1834, and the Metropolitan Poor Act, 1867, and the Acts amending and extending those Acts respectively, it would appear that a casual ward is a workhouse, and that the statutory provisions which regulate the borrowing of money by Boards of Guardians for workhouse purposes apply also to the borrowing of money for casual wards. By section 9 of the Pauper Inmates Discharge and Regulation Act, 1871, guardians are required to provide within their respective unions such casual wards, with such fittings and furniture as the Local Government Board, in their judgment, regard being had to the number of casual paupers likely to require relief therein, shall consider necessary.

[1] This consent in writing, if given, must be signed at a meeting of the guardians, unless the Local Government Board otherwise allow; see section 238 of the Act. But section 12 of the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict., c. 58), has now provided, that where under the Poor Law Amendment Act, 1834, or any of the Acts amending the same, the consent, in writing, of a majority of the guardians of a union, or the managers of a school district is required, it shall be deemed a sufficient compliance with such requirement, if a resolution giving consent is passed at a meeting of the guardians or managers, of which meeting, and of the business to be transacted thereat, not less than fourteen days' notice shall be given to each guardian or manager.

[2] "Union" includes "any number of parishes united for any purpose whatever under the provisions of the Poor Law Amendment Act, 1834, or incorporated under the 22 Geo. III., c. 83, or incorporated for the relief or maintenance of the poor under any local Act. See section 109 of the Poor Law Amendment Act, 1834.

[3] Section 18 of the Poor Law Amendment Act, 1849 (12 & 13 Vict., c. 103), provides that in any parish where there shall be a select vestry lawfully appointed, or a board of guardians appointed under any local Act, the consent, in writing, of the major part of the select vestry, or of the guardians as the case may be, shall be sufficient to enable the Poor Law Board (now the Local Government Board) to issue any order, rule, or regulation in the cases here referred to, where the consent of the ratepayers and owners of property would but for this provision have been requisite; provided that where in any parish there shall be a select vestry and also a board of guardians, the consent, in writing, of the major part of the vestry or guardians shall be sufficient according as such vestry or guardians respectively shall by law be empowered to carry the directions of the said board into execution.

[4] "Parish" is defined by section 109 of the Poor Law Amendment Act, 1834, as including "any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place or division

of any parish or union not having a workhouse or workhouses, to build a workhouse or workhouses, and to purchase or hire [1] land for the purpose of building the same thereon, or to purchase or hire a workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses; and with the like consent, to order and direct the overseers and guardians of any parish or union having a workhouse or workhouses or any buildings capable of being converted into a workhouse or workhouses, to enlarge [2] or alter the same in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution, or to build, hire, or purchase any additional workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses, or to purchase or hire any land for building such additional workhouse or workhouses thereon, of such size and description and according to such plan and in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution. The overseers and guardians to whom any such order shall be directed are authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means, as are by law given to or vested in churchwardens and overseers or guardians of the poor for purchasing or hiring land, or for building, hiring, and maintaining workhouses for the use of the poor, in their respective parishes or unions, or to borrow money for such

Power to raise money for that purpose.

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or district of a place, maintaining its own poor, whether parochial or extra parochial." Section 16 of the Poor Law Amendment Act, 1866 (29 & 30 Vict., c. 113), has since enacted that in all statutes, except there shall be something in the context inconsistent therewith, the word "parish" shall, among other meanings applicable to it, signify a place for which a separate poor rate is made, or for which a separate overseer is or can be appointed.

[1] By section 13 of the Poor Law Amendment Act, 1867 (30 & 31 Vict., c. 106), guardians are now empowered, with the approval of the Local Government Board, to hire or take on lease, temporarily or for a term of years not exceeding five, any land or buildings for the purpose of the relief or employment of the poor and the use of the guardians or their officers without any order of the said board under seal.

[2] Section 8 of the Poor Law Amendment Act, 1866, has since provided that when the board of guardians of any union or parish shall deem it expedient to make any enlargement or improvement of their workhouse, or the premises, drainage, or other appurtenances belonging thereto, at a cost not exceeding £500, and the Poor Law Board (now the Local Government Board) shall give their consent thereto, they shall not require any order of that board to enable them to execute the same.

purposes[1] under the provisions of this or any other Act or Acts.

By the 24th section of the same Act, for the better and more effectually securing the repayment of any sum or sums of money which may be borrowed for the purposes aforesaid, with interest, the said overseers and guardians are empowered to charge the future poor[2] rates of such parish[3] or union with the amount of such sum or sums of money: Provided always, that the principal sum or sums to be raised for such purposes, whether raised within the year or borrowed, shall in no case exceed the average annual amount of the rates raised for the relief of the poor in such parish or union for three years ending at the Easter next preceding the raising of such money[4]; and that any loan or

Power to charge rates (sec. 24).

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[1] These purposes now include the fitting up and furnishing of workhouses. See section 11 of the Poor Law Act, 1879 (42 & 43 Vict., c. 54), which provides that the guardians of any union, for the purpose of fitting up and furnishing any workhouse under their control, may borrow money in accordance with the provisions of the Poor Law Amendment Act, 1834 and the Acts amending the same, including this Act.

[2] "Poor rate" is defined by section 109 of the Poor Law Amendment Act, 1834, as including "any rate, rate in aid, mulct, cess, assessment, collection, levy, ley, subscription, or contribution raised, assessed, imposed, levied, collected, or disbursed for the relief of the poor in any parish or union.

[3] These loans must now be raised on the security of the common fund in unions. See section 4 of the Union Loans Act, 1869 (32 & 33 Vict., c. 45), which provides that in the following cases, viz.:—

(1.) Where any moneys borrowed before the passing of this Act, and since the 25th day of March, 1862, by the guardians of any union, with the consent of the Poor Law Board, are owing by such Guardians on the 29th day of September, 1869;

(2.) Where any moneys are borrowed by the guardians of any union, with the consent of the Poor Law Board (now the Local Government Board), after the passing of this Act;

Such moneys, with the interest thereon, shall, from and after the said 29th day of September, 1869, be a charge upon and be paid out of the common fund of such union. Provided always that no moneys borrowed before the passing of this Act, shall be so charged and paid without the unanimous consent of a meeting of guardians, of which meeting and of the business to be transacted, at least seven days' notice shall be given to each guardian, nor without the consent of the Poor Law Board.

[4] This amount has been increased by section 14 of the Poor Law Amendment Act, 1867 (30 & 31 Vict., c. 106), which provides that the amount limited by section 24 of the Poor Law Amendment Act, 1834, with reference to the sums to be raised for the purpose of building workhouses shall be increased, and instead of the limit of one year's amount of poor rates, as therein prescribed, a sum not exceeding two-thirds of the aggregate amount of poor rates raised during the three years therein mentioned may be raised for this purpose. The same section further provides that where the site shall be within any municipal borough, or within five miles from the outward boundary thereof, the cost of such site may be added to the sum aforesaid. This section is expressly declared to apply to the

money borrowed for any of the purposes aforesaid shall be repaid by annual instalments of not less than one-tenth of the sum borrowed, with interest on the same, in any one year.

6 & 7 Will., IV., c. 107, s. 1; 1 & 2 Vict., c. 25, s. 1; the Poor Law Amendment Act, 1868 (31 & 32 Vict., c. 122, s. 35); the Union Loans Act, 1869 (32 & 33 Vict., c. 45, s. 5), the Poor Law Loans Act, 1871 (34 Vict., c. 11, ss. 1 and 3); the Poor Law Loans Act, 1872 (35 Vict., c. 2, s 3); the Poor Law Act, 1879 (42 & 43 Vict., c. 54, s. 12).

The last paragraph of this section with respect to the period and mode of repayment of moneys borrowed, has been amended by the following statutes, viz., the 6 & 7 Will. IV., c. 107. s. 1; the 1 & 2 Vict., c. 25, s. 1; the Poor Law Amendment Act, 1868 (31 & 32 Vict., c. 122, s. 35); the Union Loans Act, 1869 (32 & 33 Vict., c. 45, s. 5); the Poor Law Loans Act, 1871 (34 Vict., c. 11, ss. 1 and 3); the Poor Law Loans Act, 1872 (35 Vict., c. 2, s. 3); and the Poor Law Act, 1879 (42 & 43 Vict., c. 54, s. 12).

The period and mode of repayment of all moneys borrowed by guardians since the 2nd of August, 1869, is regulated by section 5 of the Union Loans Act, 1869, as amended by section 3 of the Poor Law Loans Act, 1871, section 3 of the Poor Law Loans Act, 1872, and section 12 of the Poor Law Act, 1879.

Union Loans Act 1869 (32 & 33 Vict., c. 45, s. 5. Period and mode of employment of moneys borrowed since the 2nd of August, 1869.

Section 5 of the Union Loans Act, 1869, is as follows:—

"Any sum or sums of money borrowed by the guardians of any union or parish after the passing of this Act, may, at the option of such guardians, and with the consent of the Poor Law Board (now the Local Government Board), be repaid—

"1. By thirty equal annual payments of the principal sum borrowed, with the interest on the balance remaining unpaid each year:

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metropolis, anything in the Metropolitan Poor Act, 1867, to the contrary notwithstanding. See section 2 of the Poor Law Loans Act, 1872 (35 Vict., c. 2).

Section 30 of the Poor Law Amendment Act, 1844 (7 & 8 Vict., c. 101), has also provided that, in addition to the principal sum or sums of money which guardians are empowered by the Poor Law Amendment Act, 1834, to raise or borrow for the purpose of purchasing, hiring, building, enlarging, or altering workhouses, or buildings to be converted into workhouses, the guardians of any parish or union, any part of which is situated within the metropolitan police district, or the City of London, or the select vestry of the parish of Liverpool, may, with the consent of the Poor Law Commissioners (now the Local Government Board), also raise or borrow and charge the future poor rates of such parish or union with such further or other sum or sums of money as may be or may have been necessary for the purchase of any land, or interest in land, required as the site of such workhouse, or of any additions to any such workhouse.

The unions and parishes wholly or partly situate in the metropolitan police district are those situate in the metropolitan asylum district, a list of which will be found above at page 123. and also the following unions, viz.: Barnet, Brentford, Bromley, Croydon, Dartford, Edmonton, Epping, Epsom, Godstone, Hatfield, Hendon, Kingston, Richmond (Surrey), Romford, Staines, Uxbridge, Watford, and West Ham.

"2. By such equal annual payments as, reckoning principal and interest together, will repay the sum borrowed within thirty years."

Section 3 of the Poor Law Loans Act, 1871, provides that loans may be repaid by half-yearly instalments, and where they have been contracted to be repaid by annual instalments, they may, with the consent of the lenders, be repaid by half-yearly instalments of the principal and interest.

Poor Law Loans Act, 1871 (34 Vict., c. 11, s. 3). Half-yearly instalments.

Section 3 of the Poor Law Loans Act, 1872, has declared and enacted that section 5 of the Union Loans Act, 1869, does not prevent the guardians of any union or parish from borrowing money to be repaid within a less period than thirty years.

Poor Law Loans Act, 1872 (35 Vict., c. 2, s. 3). Borrowing for less period than thirty years.

Section 12 of the Poor Law Act, 1879, has declared that section 5 of the Union Loans Act, 1869, is to be construed as if there were substituted for the thirty equal annual payments, and the thirty years therein mentioned, such number of equal annual payments not exceeding thirty, and such number of years not exceeding thirty, as the guardians, with the consent of the Local Government Board, may in each case determine.

Poor Law Act, 1879 (42 & 43 Vict., c. 54, s. 12). Period to be determined by Local Government Board.

Section 1 of the Poor Law Loans Act, 1871, has enabled guardians to extend the period for the repayment of moneys borrowed by them prior to the 2nd of August, 1869. It provides that where any board of guardians or board of management shall, under the order of the Poor Law Board, have contracted any loan prior to that date, to be repaid by annual instalments not exceeding twenty, and the same shall not have been wholly repaid at the passing of this Act, such board of guardians or board of management, as the case may be, may, with the consent of the person or persons legally entitled to receive the repayment of such loan, and with the approval of the Poor Law Board (now the Local Government Board), extend the time for the repayment of the outstanding balance of the said loan for such a period as would have elapsed if the loan had been originally granted for a period not exceeding thirty years, and make such extension either by an endorsement on the security executed by them or by a separate deed. The charge originally created as thus extended will continue to be a valid charge on the fund charged with the repayment at the time of the passing of this Act, and all exemptions and privileges to which the original charge was entitled will apply to this extension. And where several

Poor Law Loans Act, 1871 (34 Vict., c. 11, s. 1). Extension of period for repayment and consolidation of loans contracted before the 2nd of August, 1869.

loans have been obtained from the same person or persons, and they are redeemed at the same time, the balances may be consolidated; and if a new loan be obtained the whole may be repaid within thirty years of the time at which the latest loan was contracted.

Poor Law Loans Act, 1871 (34 Vict., c. 11, s. 2). Reborrowing at lower rate of interest.

Section 2 of the same Act provides that if any guardians or managers having borrowed, or hereafter borrowing money under the authority of the Poor Law Amendment Act, 1834, the Poor Law Amendment Act, 1868, and the Union Loans Act, 1869, shall be able at any time to obtain a loan at a lower rate of interest than that secured by the charge previously made by them, they may apply to the Poor Law Board (now the Local Government Board) for an order to enable them to redeem the balance of the loan, and to borrow so much money as may be necessary for that purpose; and if that board issue their order in that behalf, the guardians or managers may borrow the requisite amount to redeem such balance, and charge the fund to which the original loan was charged with the repayment of this additional loan in so many instalments as are outstanding at the time when the loan is redeemed, but not more.

Consent of mortgagees necessary.

This section, however, provides that in the event of any loan outstanding at the time of the passing of this Act, no such redemption shall take place without the consent of the person or persons to whom the loan shall be owing.

Union Loans Act, 1869 (32 & 33 Vict., c. 45, s. 6), term of security.

Section 6 of the Union Loans Act, 1869, provides that after that Act comes into operation (*i.e.*, after the 2nd of August, 1869) every security for money borrowed under the authority of any order of the Poor Law Board (now the Local Government Board) may be made according to the following form, or as near thereto as the circumstances of the case will admit, viz.:—

FORM OF SECURITY.

This deed made the day of in the year one thousand eight hundred and , witnesseth that in consideration of the sum of , lent to the guardians of the poor of the union in the county of , *or* to the guardians of the poor of the parish of in the county of *or* to the board of management of the District (School *or* Asylum) *or* to the churchwardens and overseers of the poor of the parish of *or* to the overseers of the poor of the

township of in the county of under the provisions of the Act [*here state the Act authorizing the loan*], and in pursuance of and upon the authority of an order of the Poor Law Board (now the Local Government Board), bearing date the day of . by [*here set out the name and description of the public board, commissioners, or company, or the person, lending the money*], the receipt of which sum is testified by the memorandum at the foot thereof, signed by our treasurer [*or, in the case of the overseers*, by us], we the said guardians do hereby charge the common fund of the said union *or* the poor rates of the said parish, *or* we, the said board of management, do charge the common fund of the district, *or* the poor rates to be raised in the several unions and parishes combined in the said district, namely [*here set out the names of the unions and parishes combined in the district*], *or* we the said churchwardens and overseers *or* overseers do hereby charge the future poor rates of the said parish *or* township with the repayment of the said sum of by [*here insert the number of yearly instalments by which the loan is to be repaid, not exceeding the number limited by the statute or statutes under which it is advanced, but including those to which the time of repayment may have been extended under any statute in that behalf*][1] instalments on the day in the years following, that is to say, the sum of on the day of in the year one thousand eight hundred and the sum of on the day of in the year one thousand eight hundred and the sum of on the day of in the year one thousand eight hundred and , together with the interest at the rate of pounds per centum per annum yearly on the days aforesaid or half-yearly on the day of and on the day of in every year upon the principal for the time being unpaid according to the terms of this security *or* by instalments of the sum of in respect of the principal and interest of the sum so borrowed to be paid on the day of in every succeeding year during a period not exceeding years; provided that nothing herein contained shall prevent the said from receiving the repayment of the whole or part

[1] If the period for the repayment is extended under section 1 of the Poor Law Loans Act, 1871, the extension may be endorsed on the security. See above, page 163.

of the aforesaid sum at any time before the day of payment of the last instalment if willing to do so.

In testimony whereof we the guardians aforesaid, *or* we the said board of management, have hereunto affixed our common seal, *or* we the said churchwardens and overseers *or* overseers have hereunto set our hands and seals.

(L.S.) (L.S.) (L.S.)

Received this day of the above-mentioned
sum of from the said *A.B.*, Treasurer
of the Union, *or* of the parish of , *or*
of the said district board.

or *C.D.* and *E.F.* } Churchwardens, and overseers of
G.H. and *I.K.* } the poor of the said parish.

or *G.H.* and *I.K.*, Overseers of the poor of the said township.

[*(Seal of the Poor Law Board)* (L.S.)[1]

Registered by the Poor Law Board this day of
one thousand eight hundred and .]

NOTE.—The twenty-second and twenty-third Victoria, chapter forty-nine, section three, enacts that in the case of any debt charged by guardians upon the poor rates made repayable by instalments, each instalment shall be payable within one year next after the day when the same shall fall due, unless the Poor Law Board (now the Local Government Board) shall allow an extension of the time for the payment not exceeding six months, and the interest shall be payable within the like times only as the principal.

Registration of securities. Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict., c. 58, s. 14).

Formerly every security and transfer of security made under the Poor Law Acts was required to be transmitted to the Local Government Board for their approval, and a copy or memorial thereof was required to be kept in a register to be kept by that board. These requirements, however, have now been removed by section 14 of the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict., c. 58), which repeals "so much of section six of the Union and Parish Property Act, 1835, and of the Schedule to that Act, and so much of section six of the Parish Property and Parish Debts Act, 1842, as relate to the transmission to the Poor Law Commissioners, and the approval, settling, and registration by such commissioners of

[1] The words in brackets should be now omitted. See below.

deeds or other instruments, except as regards deeds or instruments executed prior to the date of this Act," and provides that "nothing in the said Acts, or in the Poor Law Amendment Act, 1834, or in the Union Loans Act, 1869, or the Acts amending or extending those Acts respectively, shall be deemed to require the approval or registration, by the Local Government Board, of any such deed or instrument as aforesaid."

In lieu, however, of the register formerly kept by the Local Government Board, the guardians are themselves required by the same section to "keep a register of the securities in respect of all sums borrowed by them, in such form and subject to such regulations as to inspection and otherwise, as the Local Government Board may from time to time prescribe."[1]

Securities of dissolved boards of guardians. Dissolved Boards of Management and Guardians Act, 1870 (33 Vict., c. 2, s. 7).

In cases where boards of guardians are dissolved, provision for preserving the rights of persons who may have lent money to them is made by the Dissolved Boards of Management and Guardians Act, 1870; section 7 of which provides that if, when a district or union has been or shall be dissolved, there remains unpaid any instalment of a loan contracted under the provisions of any Act of Parliament by the managers or guardians of such district or union, every such instalment and all interest on such loan not discharged before the expiration of the time within which the last acting managers or guardians respectively can act, must from time to time, after the same shall severally have become due, be paid by such board or boards of managers or guardians as the Poor Law Board) now the Local Government Board) by their order direct, and the amounts must be charged against the same parishes, and in the same proportions, as they would have been, had no such dissolution taken place. If, when a parish has been, or shall be added to a union, or to another parish, there remain unpaid any such instalment of any such loan contracted by the guardians of the parish, every such instalment, and all interest on such loan not discharged within such time as aforesaid, must from time to time after the same severally become due, be paid out of the poor rates of the parish by the overseers or other body or persons, who make and levy such rates; and the parties to whom any such instalment or interest is due, are to have in all respects the same remedies

[1] These regulations are now prescribed by an Order of the Local Government Board, dated the 7th of December, 1882, of which a copy will be found in Appendix (5).

for the recovery thereof against the managers or guardians, or against the overseers or other body or persons, as the case may be, as they severally had against the managers or guardians, who originally contracted the loan, in respect of which such instalment or interest is payable. The section further provides that nothing therein contained shall prevent the instalments and interest, or balance of any such loan from being discharged out of the produce of the sale of any property belonging to any district or union at the time of the dissolution, or to any parish at the time of its being added to it.

Loans raised, and liabilities incurred in excess of borrowing powers of guardians prior to the 25th of March, 1872. Poor Law Loans Act, 1872 (35 Vict., c. 2, s. 4).

In consequence of persons having advanced money, and incurred personal liabilities on behalf of certain boards of guardians, when the borrowing powers of such guardians were exhausted, section 4 of the Poor Law Loans Act, 1872, provided that where before the passing of that Act, any guardian or other person, at the request of the board of guardians of a union or parish, had advanced money, or incurred any liability for the benefit of the union or parish, to enable the workhouse or other works of such union or parish to be completed, when the borrowing powers of such board of guardians were exhausted, the Local Government Board might, by their order, on the application of the guardians, empower them to reimburse such guardian or person the amount so advanced, or release him from his liability by the payment of the requisite amount to him, or to the person or persons to whom he might be liable, and for this purpose to borrow money, if the Local Government Board should think proper, to be repaid in the manner required in respect of loans advanced to guardians, and, in the case of a union, to charge the sums, whether paid at once or borrowed, to the whole of the union, or to such parish or parishes contained therein only as the said board should direct.

Register offices (1 Vict., c. 22, s. 19).

"For better enabling fit register offices to be provided," section 19 of the 1 Vict., c. 22, enables boards of guardians to borrow money, and to charge the amount of the sum borrowed on the future poor[1] rates of the parish, union or place, of which they are the guardians, in the manner provided by the Poor Law Amendment Act, 1834; except that the yearly instalments by which any money so borrowed are to be repaid, must be not

[1] This charge will be on the common fund in unions. See section 4 of the Union Loans Act, 1869, page 161.

less than one-twentieth of the sum borrowed, with interest on the same, and need not be more in any one year.[1]

Metropolitan dispensaries. Metropolitan Poor Act, 1867 (30 Vict., c. s. 34).

Section 38 of the Metropolitan Poor Act, 1867, enables the Local Government Board from time to time, by order, to direct the guardians of any union[2] or parish in the Metropolis to provide one or more dispensaries[3] for such union or parish, and to purchase or hire, or to build, and (in either case) to fit up and furnish one or more buildings for that purpose, of such nature and size, and according to such plan, and in such manner, as the Local Government Board think fit, or to set apart, adapt, fit up and furnish for that purpose such part of the workhouse of the union or parish, according to such plans and in such manner as the Local Government Board think fit; and, where the Local Government Board by order so direct, the guardians may borrow the amount requisite in that behalf, in like manner and subject to the like conditions as in the case of the building of a workhouse.

Valuations in parishes not in unions (6 & 7 Will. IV., c. 96, s. 3).

Section 3 of the 6 & 7 Will. IV., c. 96, provides that when it shall be made to appear to the Poor Law Commissioners (now the Local Government Board) by representation in writing from the board of guardians of any union or parish under their common seal, or from the majority of the churchwardens and overseers or other officers competent to the making and levying the rate, that a fair and correct estimate cannot be made without a new valuation, it shall be lawful for the Poor Law Commissioners (now the Local Government Board), where they shall see fit, to order a survey, with or without a map or plan, on such scale as they shall think fit, to be made and taken of the messuages, lands, and other hereditaments liable to poor rates in such parish, or in all or any one or more parishes of such a union, and a valuation to be made of the said messuages, lands, and other hereditaments according to their annual value, and to direct such guardians to appoint a fit person or persons to make and take every such survey, map, or plan, and valuation, and to make provision for paying the costs of every such survey, map, or plan, and valuation, either by a separate rate or by a charge on the poor rates, as they may see fit. But in case of such charge being made, then provision is to be made for

[1] As regards the period and mode of repayment now allowed in the case of these loans, see above, pages 162 and 163.

[2] A list of these unions and parishes will be found above, page 123.

[3] *I.e.*, for medical out-relief.

paying off not less than one-fifth of the sum charged on the rates, and such interest as may from time to time be payable in respect of such charge, or any part thereof, in each succeeding year, till the whole is repaid.

Valuations in unions. Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict., c. 39, s. 8).

If the Assessment Committee order a valuation, with the consent of the board of guardians, to be made of all the rateable hereditaments of any parish, the guardians of the union are empowered by section 8 of the Union Assessment Committee Amendment Act, 1864, if they think fit, to apply to the Local Government Board for an order to enable them to borrow the requisite amount to pay the cost of the valuation; and if that board issue their order, the guardians may borrow the same, and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments; and where the parish for which the valuation is made is, by reason of any provision in the Union Assessment Committee Act or this Act, liable to pay the cost of such valuation, the guardians are required to charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

Trainingships. Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict., c. 63, s. 11).

Boards of guardians are empowered to provide training ships by section 11 of the Metropolitan Poor Amendment Act, 1869, which is worded as follows:—

"The guardians of any union or parish, and the managers of any school or asylum district may, with the consent of the Poor Law Board (now the Local Government Board), purchase, hire, or otherwise acquire and fit up and furnish one or more ships to be used for the training of boys for the sea service, and every such ship shall be deemed to be a school[1] or asylum, as the case may be, within the meaning of the Metropolitan Poor Act, 1867, and the several Acts therein referred to as the 'Poor Law Acts,' respectively."

Managers of District Schools.[2]

Poor Law Amendment Act, 1844 (7 & 8 Vict., c. 101, s. 44). Provision of schools and asylums.

For the purpose of providing buildings for the schools and asylums which they are authorized to provide under the Poor Law Acts, managers of district schools are empowered by

[1] The Act does not state what a training ship provided by guardians shall be deemed to be. It would probably be held to be a workhouse.

[2] The following is a list of school districts:—Brentwood, Central London, Farnham and Hartley Wintney, Forest Gate, Kensington and Chelsea, North Surrey, Reading and Wokingham, South-East Shropshire, South Metropolitan, Walsall and West Bromwich, West London.

section 44 of the Poor Law Amendment Act, 1844, subject to the order of the Local Government Board, to exercise the powers given to boards of guardians by the Poor Law Amendment Act, 1834, or any other Act or Acts, for the purchase and hire of lands and buildings, and to borrow [1] in like manner as is provided in that Act, or any other Act or Acts, such sum or sums of money as may be necessary for the purpose of purchasing any site, or purchasing, hiring, or building, and of fitting up and furnishing such building or buildings; and to charge the future poor rates of the parishes or unions in their respective districts with the payment of such sum or sums of money and interest thereon.[2]

Power to borrow for this purpose.

The same section provides that the consent of any ratepayers or owners of property of any parish shall not be necessary to any sale, exchange, lease, or other disposal by guardians or overseers to or with any such district board of any workhouse, tenement, building, or land; and that the principal sum or sums to be raised for the purpose of providing any such building or buildings and charged on any union, or on any parish not included in a union, shall in no case exceed one-fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any such union, or of the like expenditure within any such parish, for three years ending the twenty-fifth day of March next preceding the raising of such money.[3]

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[1] With respect to these powers of borrowing, see above, in pages 158 to 163. See also section 74 of the Poor Law Amendment Act, 1844, which provides that that Act shall be construed as one with the Poor Law Amendment Act, 1834, and the Acts required to be construed with that Act as one, and that, except where otherwise expressly provided, all provisions in any Act then passed, or thereafter to be passed, relating to workhouses under the management of guardians, shall apply to all workhouses under the management of any district board, *i.e.*, the managers of any district school.

[2] For the form of security, see above, pages 164 to 166.

[3] This limitation will not apply in any case in which the school district was constituted with the consent of the majority of the guardians of the several unions and parishes which are included in the district. See the 11 & 12 Vict., c. 88, s. 1. Such consent was given in the cases of the Farnham and Hartley Wintney, the North Surrey, the South-East Shropshire, and the Walsall and West Bromwich School Districts. The above limitation was enlarged in the case of school districts situated within the Metropolitan Police District from one-fifth to one-third, by section 16 of the Poor Law Amendment Act, 1851 (14 & 15 Vict., c. 105), and subsequently in the case of school districts formed in the Metropolis from one-third to two-thirds, by section 1 of the Poor Law Loans Act, 1872. Where any part of the school district is situated

Period for repayment.

The section further provides that the principal sum or sums required for the purpose of providing any such building or buildings shall, if the same be borrowed, be repaid, with all interest thereon, within a period not exceeding twenty years.

Extension of period and alteration of mode of repayment. Poor Law Amendment Act, 1868; Poor Law Loans Act, 1871; Poor Law Act, 1879.

This period was extended to thirty years by section 35 of the Poor Law Amendment Act, 1868, which provided that the time limited for the repayment of money borrowed under the Poor Law Amendment Act, 1834, and the subsequent Acts extending or amending the same, and the Metropolitan Poor Act, 1867, should be extended from twenty to thirty years. Sections 1 to 3, both inclusive, of the Poor Law Loans Act, 1871 (which are set out above, pages 163 and 164), also apply to loans raised by managers of school districts as well as to loans raised by boards of guardians. Section 13 of the Poor Law Act, 1879, has also provided that the provisions of the Union Loans Act, 1869 (see section 5 of that Act, which is set out on page 162 and 163), shall be deemed to have applied and shall apply to the managers of district schools in like manner as if they were guardians. See also section 12 of the Poor Law Act, 1879, which has provided that section 3 of the Union Loans Act, 1869, is to be construed as if there were substituted for the thirty equal annual payments and the thirty years therein mentioned such number of equal annual payments, not exceeding thirty, and such number of years, not exceeding thirty, as the guardians, with the consent of the Local Government Board, may in each case determine.

Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict., c. 63, s. 11). Training ships.

Under section 11 of the Metropolitan Poor Amendment Act, 1869, the managers of any school or asylum district are empowered, with the consent of the Local Government Board, to purchase, hire, or otherwise acquire, and fit up and furnish one or more ships, to be used for the training of boys for the sea service, and every such ship is to be deemed to be a school or asylum, as the case may be, within the Metropolitan Poor Act, 1867, and the several Acts therein referred to as the Poor Law Acts respectively.

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in the Metropolitan Police District, the managers, with the consent and order of the Local Government Board may, in addition to the sums which they are authorized to borrow under the Poor Law Amendment Act, 1844, "raise or borrow, and charge the future poor rates of the unions and parishes respectively combined in such district with such further or other sum or sums of money as may be or may have been necessary for the purchase of any land, or interest in land, required for the site of such school, or required for the training of the children maintained thereat, or for the site of any addition to such school." As to the unions and parishes in the Metropolitan Police District, see note on page 162.

Harbour Authorities.

Harbours and Passing Tolls, &c., Act, 1861 (24 & 25 Vict., c. 47).

Advances of money to harbour authorities by Public Works Loan Commissioners (sec. 3).

Section 3 of the Harbours and Passing Tolls, &c., Act, 1861, provides that the Public Works Loan Commissioners may advance money to any harbour[2] authority for the purpose of constructing, improving, maintaining, or lighting any public harbour,[3] or for carrying into effect any other shipping purpose, such sum or sums of money, as may be required, subject to the following regulations :—

Approval of Board of Trade required.

(1.) No harbour authority may borrow any money from the commissioners under this Act without the approval of the Board of Trade, in writing, signed by one of their secretaries, or assistant secretaries.

Rate of interest.

(2.) When the aggregate amount of the principal moneys due to the commissioners from any one harbour authority does not exceed £100,000, the interest payable in respect thereof must be at the rate of $3\frac{1}{2}$[4] per cent. per annum; but when such aggregate amount exceeds £100,000, the interest payable in respect of £100,000 must be at that rate, and the interest payable in respect of the excess shall be at such higher rate as the commissioners may determine, not exceeding 5 per cent. per annum.

Period for repayment not to exceed fifty years.

(3.) The period for repayment of any sums advanced must not exceed fifty years.

Security for loan.

(4.) The repayment of any advances, and of the interest thereon must be secured upon all or any of the rates leviable by the harbour authority, to whom such advances are made, either alone or together with such other property or income as may be agreed upon, and it will not be incumbent on the commissioners to require any other security.

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[1] As to the borrowing powers of harbour authorities under Provisional Orders, see below in Chapter V.

[2] The expression "harbour authority" is defined by section 2 of the Act as including all persons, or bodies of persons, corporate or unincorporate, being proprietors of, or intrusted with the duty of constructing, improving, managing, maintaining, or lighting any harbour.

[3] The word "harbour" is defined by section 2 as including harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties, or other works in or at which ships can obtain shelter, or unship goods or passengers.

[4] But now, see section 10 of the Public Works Loans Act, 1875, and section 2 of the Public Works Loans Act, 1879, as to which information will be found at pages 80 and 83.

Power to harbour authorities to borrow from commissioners.

(5.) Any harbour authority, which has for the time being power to levy rates and tolls immediately or prospectively, or is or may be entitled to any other income or property applicable to shipping purposes, has power to borrow money from the commissioners under this Act on the security of such rates, tolls, income, or property, or any part thereof, and to charge the same accordingly.

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages.

(6). For the purposes of loans made to any harbour authority under this Act, the clauses[1] of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the commissioners, except so far as the same may be inconsistent with the Public Works Loans Acts, are incorporated with this Act; and in the construction of this Act, and of the clauses so incorporated, this Act is to be deemed to be the special Act, and the harbour authority to which an advance is made are to be deemed to be the commissioners.

Money not to be borrowed until regulations as to rates approved by Board of Trade.

(7.) No harbour authority, being the proprietor of any private harbour, may borrow any money from the commissioners under this Act, unless such regulations are made in respect of the rates to be taken in such harbour, and the user thereof by the public, as the Board of Trade may approve; and for the purpose of making and enforcing such regulations, Her Majesty, by Order in Council, is empowered to declare that the Harbours, Docks, and Piers Clauses Act, 1847, shall apply to such harbour, and to fix a schedule of rates, not exceeding the rates specified in the schedule to the Burgh Harbours (Scotland) Act, 1853, to be taken in such harbour; and thereupon the said Harbours Clauses Act, with the exception of such clauses as may be excepted from the said order will apply to the harbour in the same manner, as if it had been declared to apply thereto by Act of Parliament; and in the construction of this Act and of the incorporated Act, this Act is to be deemed to be the special Act; and the expression "the undertaker" is to be deemed to mean the proprietor of the said harbour; and the "rates" are to be deemed to be such rates, as may be sanctioned by the said Order in Council.

Harbours, Docks, and Peers Clauses Act, 1847, may be incorporated by Order in Council.

[1] These clauses will be found in Appendix (1).

(8.) Where any harbour authority, being the proprietor of any harbour is entitled to a "limited[1] estate" therein, he will have power to make the repayment of any moneys borrowed by him under this Act with the interest, a charge on his limited estate in the said harbour, and on the estate and interest of every person taking under the same settlement any estate or interest in such harbour in defeasance or expectancy, or by destination on the determination of such estate, but it will be subject to all incumbrances on the harbour subsisting at the time of the charge.

Power to proprietors with limited estates to charge other estates in settlement.

(9.) No advance or part of any advance may be made in pursuance of this Act to any person entitled to a limited estate, so as to charge the estate or interest of any person taking in defeasance or expectancy, or by destination, except to an amount to be specified in certificates to be from time to time issued under the hand of one of the secretaries or assistant secretaries of the Board of Trade; and no such certificate may be issued until it has been proved, to the satisfaction of the Board of Trade, that the amount specified in the certificate has been properly expended upon the said harbour.

Advances to persons with limited estates to be made to amounts specified in certificates of Board of Trade.

By section 17 of this Act, any body corporate or person having power to levy shipping dues may, with the consent of Her Majesty in Council, by deed transfer, upon such terms as they or he shall think fit, all or any portion of the shipping dues leviable by them or him to any authority entrusted with the duty of constructing, maintaining, or improving any public harbour within which such dues or any portion thereof may be levied. Under section 20, every harbour authority may, from time to time, borrow at interest on the security of any property belonging to them, or of any rate or rates which they have power to levy, any sum or sums they may require for procuring any such transfer to be made to them; and for the purposes of such borrowing, the clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the

Power to transfer dues to harbour authority (sec. 17).

Power to borrow in order to effect such transfer (sec. 20).

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages.

[1] By section 2 of the Act, the expression "limited estate" is defined as meaning the estate of any person entitled under any settlement at law or in equity for his own benefit to the possession or receipt of the rents and profits of land of any tenure for the term of his own life, or of the life of any other person, whether such land is or is not subject to incumbrances.

commissioners[1] (excepting clause 84) are incorporated in this Act.

The Harbours Transfer Act, 1862 (25 & 26 Vict., c. 69). Power to borrow whether authorized by special Act or not (sec. 20).

The borrowing powers of harbour authorities under this Act have been amended and extended by several subsequent Acts. The first of these is the Harbours Transfer Act, 1862, section 20 of which provides that the power given to a harbour authority by the Harbours and Passing Tolls, &c., Act, 1861, to borrow from the Public Works Loan Commissioners, shall be deemed to apply whether the harbour authority has or has not power to borrow under a special Act. By section 21 of the same Act, harbour authorities are empowered, subject and according to the provisions of the Harbours and Passing Tolls, &c., Act, 1861, to borrow money to any amount whatever, notwithstanding any limitation of the amount to be borrowed by such harbour authority contained in any special Act; but nothing in the Harbours and Passing Tolls, &c., Act, 1861, or in this Act, is to be deemed to give to any loan made or to be made under the Harbours and Passing Tolls, &c., Act, 1861, equality as to order of charge or of payment of principal and interest, with any loan made or to be made under any special Act, except only as to such portion (if any) of the money raised under the Harbours and Passing Tolls, &c., Act, 1861, as might have been raised under the special Act solely, or to repeal or alter any provision of any special Act, whereby any harbour authority, being a company, is restricted from borrowing until a definite portion of capital is subscribed for or taken, or paid up.

Borrowing powers not restrained by limitation of amount in special Act (sec. 21).

The Public Works and Fisheries Acts Amendment Act, 1863 (26 & 27 Vict., c. 81). Public Works Loan Commissioners empowered to grant priority of security in respect of loans to harbour authorities by other persons (sec. 1).

Further alterations in the borrowing powers of harbour authorities have been made by the Public Works and Fisheries Amendment Act, 1863, section 1 of which provides that, notwithstanding any provision to the contrary contained in the Acts therein-before mentioned (one of which is the Harbours and Passing Tolls, &c., Act, 1861), or in any other Act or Acts passed or to be passed relating to the Public Works Loan Commissioners, it shall be lawful for the commissioners, from time to time, to grant priority of security, as well for principal as interest, in respect of any loan made or to be made to any harbour authority by any person or persons, other than the commissioners, over any security which has been or shall be given to the commissioners by such harbour authority: provided that the grant of such priority will not, in the opinion

[1] These clauses will be found in Appendix (1).

of the commissioners, affect the sufficiency of the security given or to be given to the commissioners.

Such grant of priority will not give any force or validity to any security which could not have been legally given if this Act had not been passed. But where any harbour authority has, independently of "The Harbours and Passing Tolls, &c., Act, 1861," the power to borrow and secure money to a limited amount only, it will be lawful for the commissioners, if they think proper, to cause to be inserted in any deed or other instrument made or executed to secure an advance by them to such harbour authority, a declaration that such advance shall not be taken as part of such limited amount; and thereupon, and notwithstanding such advance, money to the full extent of such limited amount may be borrowed and secured in addition to the sum secured by the deed or instrument containing the declaration aforesaid, and the fact of the secretary for the time being of the commissioners being a party to such deed or instrument, and being the person to whom such security is made, will be conclusive evidence that any such declaration was inserted therein by the authority of the commissioners.

Such priority not to give validity to any security which could not have been given if this Act had not been passed (sec. 2).

The priority authorized to be granted by the first section of this Act, may be granted either by the deed or instrument whereby the security to the Public Works Loan Commissioners is made, or from time to time by any other deed or instrument, in writing, under the hand of the secretary for the time being of the commissioners, and such priority may be so granted either absolutely or subject to any terms and conditions which the commissioners may think proper to impose.

How priority may be granted (sec. 3).

Where any debt due from a harbour authority has priority over any security made for any loan by the Public Works Loan Commissioners to the same harbour authority, then, notwithstanding any provisions to the contrary contained in the Acts mentioned in this Act or in any other Act or Acts passed or to be passed relating to the Public Works Loan Commissioners, the same harbour authority may, from time to time, borrow money to be applied in paying off any debt for the time being having such priority as aforesaid, and may grant and give security for such money similar to the security which had previously existed for the debt paid off. All securities for money so borrowed and applied will have the like priority as the security for the debt paid off thereout previously had.

Harbour authorities empowered to borrow money to pay off debts having priority over security for loans by Public Works Loan Commissioners (sec. 4).

The Harbour Loans Act, 1866 (29 Vict., c. 30). Power for Board of Trade to authorize suspension of sinking fund, &c., under certain Harbour Acts (24 & 25 Vict., c. 47).

The Harbours and Passing Tolls, &c., Act, 1861, has been further amended by the Harbour Loans Act, 1866, section 1 of which provides that where, under the Harbours and Passing Tolls, &c., Act, 1861, any loan has been or is about to be made by the Public Works Loan Commissioners, to a harbour authority, having borrowing powers under a special Act, by which the extinguishment of any debt of the harbour authority by means of annual payments of a prescribed amount or within a prescribed time is required, and the Board of Trade, on the application of the harbour authority, are satisfied that by virtue of the provision made, or about to be made, for repayment within a certain time of any such loan or loans from the Public Works Loan Commissioners, there will be extinguished an amount of debt of the harbour authority not less than that which would in the same time be extinguished under the provisions of the special Act, and the Board of Trade thereupon certify, in writing, to the effect that it is expedient that the operation of the provisions of the special Act relative to the extinguishment of debt, or such of them as are referred to in the certificate, should, as from a time therein specified, and subject to any conditions therein expressed, be suspended during the period or periods for repayment of such loan or loans to the Public Works Loan Commissioners, then and in every such case the operation of those provisions is by virtue of this Act and of the certificate, suspended accordingly.

Restriction on reborrowing (sec. 2).

Any money borrowed from the Public Works Loan Commissioners to which any certificate of the Board of Trade under this Act relates, when paid off, must not be reborrowed.

The Chain Cable and Anchor Act, 1871 (34 & 35 Vict., c 101). Power to borrow for machines for testing chain cables and anchors (sec. 4).

Section 4 of the Chain Cable and Anchor Act, 1871, has provided that the establishment, purchase, or construction of a testing machine by any of the corporations,[1] bodies or persons authorized to receive a license under that Act, shall be a shipping[2] purpose, for which the Public Works Loan Commissioners may advance money under the authority and subject to the regulations of the Harbours and Passing Tolls, &c., Act, 1861.

[1] A list of corporations and public bodies to whom licenses to test chain cables and anchors may be granted under this Act, is contained in the First Schedule to the Act, and power is given by section 3 of the Act to Her Majesty, by Order in Council, from time to time, to direct that licenses may be granted to other corporations and public bodies.

[2] See the wording of section 3 of the Harbours and Passing Tolls, &c., Act, 1861, above, page 173.

Harbour authorities are constituted, by section 67 of the Explosives Act, 1875, the local authorities for the purposes of that Act in any harbours within their jurisdiction, to the exclusion of any other local authority; and by section 70 of the same Act, the expenses incurred by any local authority in the execution of the Act, are directed to be paid out of the local rate, which, in a harbour, is declared to be any moneys, fund or rate applicable or leviable by the harbour authority for any harbour purposes. The powers of harbour authorities to provide magazines for the keeping of explosives, and to borrow on the security of the local rate the amount required for the purpose of acquiring any land for any magazine, or for acquiring or building any magazine in pursuance of this section, are contained in section 72 of the Act, and will be found on pages 141 and 142, under the head of "Municipal Corporations."

Magazines for storage of explosives. The Explosives Act, 1875 (38 Vict., c. 17). How expenses of harbour authority to be defrayed (sec. 70). Provision of magazines and borrowing of money for this purpose (sec. 72).

Commissioners of Sewers, under the Land Drainage Act, 1861.

By section 40 of the Land Drainage Act, 1861, Commissioners of Sewers constituted under that Act may, for the purposes of defraying any costs, charges and expenses incurred or to be incurred by them under the authority of any Act of Parliament, law or custom, borrow and take up at interest, on the credit of the rates authorized to be levied by them, any sums of money necessary for defraying such costs, charges and expenses; and for the purpose of securing the repayment of any sums of money so borrowed, and the interest thereon, the commissioners may mortgage and assign over to the persons by or on behalf of whom such sums are advanced the rates or any of them; but the exercise of the above power is made subject to the following regulations:—

Land Drainage Act, 1861 (24 & 25 Vict., c 133). Power to borrow (sec. 40).

(1.) The borrowing such money must be sanctioned by an order of the Inclosure Commissioners.

(2.) Any money so borrowed may, by agreement with the mortgagee, be paid off by equal annual instalments of principal and interest, and such borrowing may be for such time, not exceeding thirty years, as the commissioners, with the sanction of the Inclosure Commissioners, determine in each case. In cases where the commissioners borrow any money for the purpose of defraying expenses in respect of which they have determined a part only of the district within their jurisdiction

to be liable, it will be the duty of the commissioners, as between the ratepayers of the district, to repay the money so borrowed, with interest thereon, out of rates to be levied on such part of the district only.

Incorporation of clauses of Commissioners Clauses Act, 1874, relating to mortgages (sec. 41).

The clauses of the Commissioners Clauses Act, 1847,[1] with respect to mortgages to be created by the commissioners, are incorporated with this Act, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

Highway Boards.

The Highway Act, 1864 (27 & 28 Vict., c. 101) (sec. 47).

Power to borrow with approval of county justices.

Estimate to be made and notice given.

Section 47 of the Highway Act, 1864, provides as follows:—"A Highway Board may make such improvements as are therein-after[2] mentioned in the highways within their jurisdiction, and may, with the approval of the justices in general or quarter sessions assembled, borrow money for the purpose of defraying the expenses of such improvements. Previously to applying for the approval of the justices, the Highway Board shall cause an estimate of the expense of the improvements to be made, and two months in the least before making their application, shall give notice of their intention so to do.

"The notice shall state the following particulars:—

Contents of notice.

"(1.) The nature of the work, the estimated amount of the expense to be incurred, and the sum proposed to be borrowed;

"(2.) The parish[3] or parishes within the district by which the sum borrowed and the interest thereon is to be paid, and in case of more parishes than one being made liable to pay the principal and interest, the annual amounts to be contributed by each parish towards the payment thereof;

"(3.) The number of years within which the principal moneys borrowed are to be paid off, not exceeding twenty years, and the amount to be set apart in each year for paying off the same;

"(4.) The sessions at which the application is to be made;

How notice to be given.

"Notice shall be given as follows:—

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[1] These clauses will be found in Appendix (1).

[2] That is, in the following section, which will be found at page 181.

[3] All money borrowed under this section after the 25th of March, 1879, is charged on the district fund. See section 8 of the Highways and Locomotives (Amendment) Act, 1878, page 183.

"(1.) By transmitting a copy to the clerk of the peace for the county or division.

"(2.) By placing a copy of such notice for three successive Sundays on the church door of every church of the parish or parishes on behalf of which such works are to be done, or in the case of any place not having a church, in some conspicuous position in such place.

Hearing of application.

"Upon the hearing of the application any person or persons may oppose the approval of the justices being given, and it shall be lawful for the justices to give or withhold their approval, with or without modification, as they think just.

How money borrowed to be charged.

"All moneys borrowed in pursuance of this Act, together with the interest thereon, shall be a first charge on the highway rates of each parish liable to contribute to the payment thereof, after paying the sums due to the Highway Board, on account of the district[1] fund, in the same manner, so far as the creditor is concerned, as if the money had been borrowed on account of each parish alone; and the sums necessary to repay the said borrowed moneys, with interest, shall, in each such parish, be recoverable in the same manner, as if they were expenses incurred by the board in keeping in repair the highways of that parish. But it shall be the duty of the Highway Board, in case of any one parish paying more than its share of such borrowed money, or of the interest thereon, to make good to that parish the excess so paid out of the rates of the other parishes liable to contribute thereto.

General order as to applications.

"The justices may, from time to time, make general orders in relation to the mode in which applications are to be made to them for their consent, under this Act, to the borrowing of any moneys."

What to be deemed improvements of highways (sec 48).

The 48th section of the same Act declares that the following works shall be deemed to be improvements of highways:—

(1.) The conversion of any road that has not been stoned into a stoned road.

(2.) The widening of any road, the cutting off of the corners in any road where land is required to be purchased for that purpose, the levelling of roads, the making of any new road, and the building or enlarging of bridges.

(3.) The doing of any other work in respect of highways beyond ordinary repairs, essential to placing any existing highway in a proper state of reform.

[1] See note 3 on preceding page.

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages[1] (sec. 50).

The clauses of the Commissioners Clauses Act, 1847, with respect to mortgages to be created by the commissioners are incorporated with this Act, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver. In the construction of such clauses, "the commissioners" will mean the "Highway Board." Mortgages and transfers of mortgages will be valid if made in the forms prescribed by the last-mentioned Act, or in the forms appearing in the Second Schedule to this Act, or as near thereto as circumstances will admit (section 50).

The forms in question are as follows:—

FORM OF MORTGAGE OF HIGHWAY RATES.

Form of mortgage, Schedule 2. Form, No. 23.

The Highway Board of the district, in consideration of pounds paid to the treasurer of the said board by A.B., of , assigns unto the said A.B., his executors, administrators, and assigns, such proportion of the highway[2] rates leviable in the highway parish or parishes of (*name the parishes*), as the said sum of pounds bears to the whole sum borrowed on the credit of the said rates, to hold unto the said A.B., his executors, administrators, and assigns, until the said sum of pounds, with interest, at the rate of pounds per centum per annum, is paid.

The interest on this mortgage will be paid at on the day and day of in every year.

The principal will be paid at on the day of

Given under our[3] corporate seal this day of 18

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[1] These clauses are set out in Appendix (1).

[2] This is inapplicable in the case of moneys borrowed after the 25th of March, 1879. See section 8 of the Highways and Locomotives Amendment Act, 1878, page 183.

[3] The mortgage must be under the corporate seal of the board. See section 75 of the Commissioners Clauses Act, 1847.

TRANSFER OF MORTGAGE BY INDORSEMENT.

Form of transfer. Schedule II., Form, No. 24.

The within-named A. B., in consideration of the sum of pounds, paid to him by C. D., of , hereby transfers to the said C. D., his executors, administrators and assigns, all his interest in the moneys secured by the within-written mortgage and in the within-named rates.

In witness whereof the said A. B. has [1] hereunto set his hand and seal this day of 18 .

The Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict., c. 77, s. 8).

By section 8 of the Highways and Locomotives (Amendment) Act, 1878, all moneys borrowed by a highway board after the 25th of March, 1879, under the Highways Acts,[2] are to be charged on the district[3] fund; but nothing in this Act is to affect the security, chargeability, or repayment of any moneys borrowed before the 25th of March, 1879.

The South Wales Highway Act, Amendment Act, 1878 (41 & 42 Vict., c. 34).

The powers of borrowing conferred on highway boards by the Highway Act, 1864, did not extend to any highway board in the counties of Glamorgan, Brecknock, Radnor, Carmarthen, Pembroke, and Cardigan, no part of any such counties being authorized to be included in a highway district formed in pursuance of the Highway Act, 1862. See section 7 of that Act. Similar powers of borrowing have, however, been conferred on the highway boards in these counties by the South Wales Highway Act, Amendment Act, 1878, the only difference between the powers thus given, and those contained in the Highway Act, 1864, being that the approval of the County Roads Board is required to the borrowing, instead of that of the justices in general or quarter sessions, and that the County Roads Board is substituted for the justices throughout the enactments, which are in other respects, the same as sections 47, 48, and 50 of the Highways Act, 1864, as set forth above in pages 180 to 182. Section 7 of the Act provides that a limitation as to the amount in the pound of the rateable value of the property to be levied in any one year imposed by section 24 of the South Wales Highway

Powers of borrowing given to Highway Boards of South Wales.

[1] The transfers must be under seal. See section 77 of the Commissioners Clauses Act, 1847.

[2] The Highway Acts "mean the Highway Act, 1835; the Highway Act, 1862; and the Highway Act, 1864." See section 1 of the last named Act.

[3] The district fund is contributed by the parishes in the highway district in proportion to their rateable value. See section 32 of the Highway Act, 1864.

Act (23 & 24 Vict., c. 68) shall not apply to the amount of principal and interest of money borrowed under this Act, and liable to be repaid in any year.

Burial Boards.

The Burial Acts, 1852 and 1853 (15 & 16 Vict., c. 85, and 16 & 17 Vict., c. 134).

By sections 20 and 21 of the Burial Act, 1852 (which by section 7 of the Burial Act, 1853, are made applicable to parishes not in the metropolis), Burial Boards appointed by vestries are empowered with the sanction of the vestry, and the approval of the Commissioners of Her Majesty's Treasury to borrow any money required for providing and laying out any burial ground under that Act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor rates of the parish with the payment of such money and the interest thereon; and the Public Works Loan Commissioners are empowered from time to time to make to the Burial Board of any parish for the purposes of this Act, any loan upon security of the rates for the relief of the poor in such parish.

Power to borrow for burial grounds and chapels.

Power of Public Works Loan Commissioners to lend money to Burial Boards.

The Burial Act, 1854 (17 & 18 Vict., c. 87).

By sections 1 and 2 of the Burial Act, 1854, town councils of boroughs may be made Burial Boards by Orders in Council, and the provisions above referred to are, subject to the provisions contained in this Act, extended and made applicable to such boroughs and town councils, except that the necessity of obtaining the sanction of the vestry is dispensed with.

Town Councils may be made Burial Boards by Order in Council.

Expenses of Act in boroughs.

By section 3 of this Act, all the expenses of carrying the Act into execution in any borough are, subject to the provisions[1] therein-after contained, made chargeable upon the borough fund and borough rate; and any money to be borrowed under the authority of this Act by the town council, and the interest thereon, are required to be charged on the moneys, out of which such expenses are by this Act directed to be paid.

Section 4 now superseded.

Section 4 of the Act, which enables Burial Boards appointed by vestries, and town councils acting as Burial Boards, to borrow money at a lower rate of interest to pay off securities bearing a higher rate, is practically superseded by section 19 of

[1] The provisions in question are those contained in section 9, under which the Order in Council may exempt any parish wholly or partly in the borough, which is already provided with a sufficient burial ground, from being assessed towards defraying the expenses of the Act within the borough; and in such a case a separate rate to be levied in the same manner as a borough rate within such parts of the borough as are not so exempted, is substituted for the borough rate.

the Burial Act, 1857 (20 & 21 Vict., c. 81), which, as will be hereafter seen, makes the provisions with respect to mortgages in the Commissioners Clauses Act, 1847, applicable to mortgages and other securities executed by Burial Boards. Section 5 of the present Act is, however, still of importance. It provides that if at any time appointed by any mortgage for payment of the principal secured thereby, any such Burial Board or town council, as aforesaid, are unable to pay off the same, they may, if they think fit, borrow such sum of money as may be necessary for the purpose of paying off all or any part of such principal money, and secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other moneys authorized to be borrowed by such Burial Board or town council under the Burial Act, 1853, or this Act. This power is useful, because the only power of reborrowing given by the Commissioners Clauses Act, 1847, is the power to reborrow at a lower rate of interest to pay off securities carrying a higher rate.

Power to reborrow (sec. 5).

By section 20 of the Burial Act, 1855, any Local Board of Health acting as, or created a board under or by virtue of any local Act of Parliament may have, and exercise all the powers, rights, and privileges which by this Act or by the Burial Act, 1853, are or can, or may be had, enjoyed, or exercised by any Burial Board therein named.

The Burial Act, 1855 (18 & 19 Vict., c. 128).

By section 4 of the Burial Act, 1857, Local Boards of Health, and Improvement Commissioners elected by the ratepayers may be constituted Burial Boards by Orders in Council, and the powers and provisions of the Burial Acts, 1852, 1853, 1854, and 1855, except certain provisions relating to the constitution or appointment and resignation of members of Burial Boards, and the provisions contained in this Act, are made to extend to such local boards and commissioners and their districts, except that the necessity of obtaining the sanction of the vestry is dispensed with.

The Burial Act, 1857 (20 & 21 Vict., c. 81).

Local Boards and Improvement Commissioners may be constituted Burial Boards (sec. 4).

Sections 19 to 21 of this Act contain some very important alterations in the provisions relating to borrowing by Burial Boards. The first two of these sections provide that the clauses[1] of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the commissioners, shall be incorporated with this Act, and shall apply to mortgages and

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages (secs. 19 & 20).

[1] These clauses are set out in Appendix (1).

other securities to be executed by Burial Boards; and that, for the purposes of the Act, the expression "the commissioners," when used in the said clauses, shall mean the Burial Board acting in the execution of the said clauses, and the Burial Acts, 1852, 1853, 1854, and 1855, and this Act; and that, for the purpose of providing a sinking fund for paying off the principal money borrowed on mortgages under any of the said Acts or this Act, the Burial Board shall, once in every year, set aside, out of the moneys charged by such mortgages, such sum as they think proper, being a sum equal to or exceeding one-fiftieth part of the principal money so borrowed.

One-fiftieth part to be set aside annually for sinking fund.

Power to grant annuities for lives, or for years not exceeding thirty (sec. 21).

Section 21 of this Act provides that any Burial Board or council of a borough may, for the purpose of raising money, instead of making mortgages under any of the Burial Acts, grant terminable annuities[1] for a life or lives, or for any number of years not exceeding thirty, to be paid out of the like moneys as provided with regard to the moneys secured by such mortgages.

Burial rate.

Section 22 of this Act provides that any money required by the council of any borough for the purpose of defraying the last-mentioned Acts or any of them, or for paying any moneys borrowed under such Act, or any interest thereon, may be raised by such council, if they think fit, by means of a separate rate to be called a burial rate, to be charged upon all property within such borough liable to be charged to the borough rate.

The Local Government Act, 1858 (21 & 22 Vict., c. 98).

Local Board at option of vestry may be Burial Board.

Section 49 of the Local Government Act, 1858, as re-enacted by the Public Health Act, 1875 (see section 343, and Part III. of Schedule V. to that Act), provides that when a vestry of any parish, comprised in a local government district, resolves to appoint a Burial Board, the local board may, at the option of the vestry, be the Burial Board for such parish, and all expenses incurred by such Burial Board shall be defrayed out of a rate to be levied in such parish in the same manner as a general district rate. But if the parish has been declared a ward for the election of members of the local board such members will form the Burial Board for the parish, and will be deemed to be a Burial Board elected under the Burial Acts for the time being in force.

The Burial Act, 1860 (23 & 24 Vict., c. 64).

Section 1 of the Burial Act, 1860, provides that any money required by any local board, constituted a Burial Board, for

[1] This is an unusual power. See page 8.

defraying the expenses of carrying into execution the powers and provisions of the Burial Acts and of this Act, in the district for which they may have been so constituted a Burial Board, or for paying any moneys borrowed or annuities granted under the authority of such Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, may, if the local board so think fit, be paid out of the general district rates leviable within such district; and the local board may levy, as part of the general district rate, or by a separate rate, under the name and designation of a burial rate, to be assessed and recovered in like manner as a general district rate within the district for which they act as a Burial Board, such sums of money as shall be from time to time necessary for any of these purposes.

How expenses of Local Boards, constitute Burial Boards, may be defrayed (sec. 1).

Section 2 of the same Act contains very similar provisions authorizing the expenses of Improvement Commissioners, when acting as a Burial Board, to be paid out of the improvement rate leviable within their district, or out of a separate rate to be called a burial rate, to be assessed and recovered in the same manner as an improvement rate.

Expenses of Improvement Commissioners acting as Burial Boards (sec. 2).

Doubts having arisen whether, under the second section of the Burial Act, 1860, the improvement rate or burial rate, thereby authorized to be levied, could be legally mortgaged or assigned as a security for the repayment of the sums referred to in that Act, the Burial Act, 1862, enables any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act for the improvement of any town, parish, or borough, who shall have been constituted a Burial Board for any district, to borrow at interest from time to time, with the approval of the Treasury, on mortgage of the improvement rate and burial rate, or either of them, leviable within the district, such sums of money as may be required by the Burial Board for the purposes of the Burial Acts within the district.

The Burial Act, 1862 (25 & 26 Vict., c. 100). Powers of Improvement Commissioners acting as Burial Boards to mortgage improvement rate or burial rate (sec. 1).

The clauses and provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, are incorporated with this Act, and are made applicable to all mortgages created under the provisions thereof.

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages[1] (sec. 2).

[1] These clauses are set out in Appendix (1).

The Sanitary Act, 1866 (29 & 30 Vict., c. 90). Power of Burial Boards to transfer powers, &c. to Urban Sanitary Authority (sec. 44).

Section 44 of the Sanitary Act, 1866, as re-enacted by the Public Health Act, 1875 (see section 343, and Part III. of Schedule V. to that Act), provides that when the district of a Burial Board is included in or conterminous with the district of an Urban Sanitary Authority, the Burial Board may, by resolution of the vestry, and by agreement of the Burial Board and Urban Sanitary Authority, transfer to the Urban Sanitary Authority all their estate, property, rights, powers, duties, and liabilities, and, from and after such transfer, the Urban Sanitary Authority shall have all such estate, property, rights, powers, duties, and liabilities, as if they had been duly appointed a Burial Board under the Burial Acts for the time being in force.

School Boards.[1]

The Elementary Education Act, 1870 (33 & 34 Vict., c. 75). Borrowing by the School Board for London.

The powers of borrowing originally conferred on School Boards were contained in section 57 of the Elementary Education Act, 1870, which section is now repealed by section 28 of the Elementary Education Act, 1873. Section 58 of the Elementary Education Act, 1870, contains special provisions with respect to the borrowing of money by the School Board for London. It provides that any sum borrowed by that School Board, in pursuance of this Act, with the approval of the Education Department, may be borrowed from, and lent by, the Metropolitan Board of Works, and that section 37 of the Metropolitan Board of Works Loans Act, 1869, shall apply to such loan in the same manner as if the managers[2] therein-mentioned were the School Board for London, and there were added to the sum therein authorized to be borrowed, the sum authorized by the Education Department to be borrowed under this section.

School Boards in default (secs. 63 & 65).

Where the Education Department are satisfied that a School Board is in default as mentioned in this Act, and have appointed members to remedy such default, such members may perform all the duties and exercise all the powers of a School Board, under the Act (section 63). In such a case, however, the School Board may not borrow, or charge the school fund,

[1] In connexion with the borrowing powers of School Boards, see the case of *Reg.* v. *Sir Charles Read*, Appendix (6).

[2] That is, the managers of the Metropolitan Asylum District. See page 102, and Appendix (2).

with the principal and interest of any loan exceeding such amount as the Education Department certify to be required (section 65).

The Elementary Education Act, 1873 (36 & 37 Vict., c. 86). Powers of borrowing now possessed by School Boards.

Section 10 of the Elementary Education Act, 1873, provides that the Elementary Education Act, 1870, and Acts referring thereto, shall be construed as if for section 57, which is repealed by this Act, there were substituted the following section :—

"Where a School Board have incurred or require to incur any expense, either—

(*a.*) In providing or enlarging a school-house; or

(*b.*) In paying off any debt charged on a school-house provided by them, or on any land acquired by them by gift, transfer, purchase, or otherwise, for the purposes of this Act; or

(*c.*) In any works of improving or fitting[1] up a school-house, which, in the opinion of the Education Department, ought, by reason of the permanent character of such works, to be spread over a term of years, they may, with the consent of the Education Department, spread the payment over such number of years, not exceeding fifty, as may be sanctioned by the Education Department, and may, with the like consent, for that purpose borrow money on security of the school fund and local[2] rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan; they may, if they so agree with the mortgagee, pay the amount borrowed, with the interest, by equal[3] annual instalments, not exceeding fifty, and if

[1] The Education Department do not regard the cost of providing school fittings or furniture, other than desks and seats, tables, chairs, galleries for infants, dressers in teachers' houses, and cupboards, as an expense which can properly be paid out of borrowed money, unless the items have been specifically sanctioned as payments to be made out of the loan.

[2] The local rate is, in the City of London, the consolidated rate; in the parishes mentioned in Schedule A, and in the districts mentioned in Schedule B, to the Metropolis Management Act, 1855, the general rate and fund raised by the general rate; in the places mentioned in Schedule C, to that Act, the rate levied for the purposes of the Metropolitan Poor Act, 1867, and any Act amending the same; in boroughs, except Oxford, the borough fund and borough rate; in the district of the local board of Oxford, the rate leviable by the local board; and in parishes not included in any of the above mentioned districts, the poor rate. See section 4 of the Elementary Education Act, 1870, and the First Schedule to that Act.

[3] Whether the instalments are to be equal annual instalments of principal, or equal annual payments of principal and interest combined (as to which,

they do not so agree, they shall annually set aside one-fiftieth of the sum borrowed as a sinking fund. Provided that no such consent of the Education Department shall be granted, unless proof be given to their satisfaction that the additional school accommodation, which it is proposed to supply, is required in order to provide for the educational wants of the district.

Incorporation of clauses of Commissioners Clauses Act, 1847, relating to mortgages.

"For the purpose of such borrowing[1] the clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the School Board which is borrowing shall be deemed to be the commissioners.

Power to Public Works Loan Commissioners to lend for fifty years at reduced rate of interest.

"The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate, without requiring any further or other security, such loan to be repaid within such number of years, not exceeding fifty, as may be recommended by the Education Department, and to bear interest at the rate of three and a half per cent. per annum.[2]

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see above, at pages 44 and 45), is not stated, but as the expression "instalments" is not usually applicable to interest, and the School Board are required to set aside one-fiftieth, as a sinking fund, if they do not agree to repay by equal annual instalments, it seems doubtful whether a School Board, except when borrowing from the Public Works Loan Commissioners, may repay its loans by equal annual payments of principal and interest combined, for, in that case, considerably less than one-fiftieth will be repaid in each of the first few years. Loans advanced to School Boards by the Public Works Loan Commissioners, are granted under the Acts authorizing the Public Works Loan Commissioners to lend moneys to local authorities, and section 11 of the Public Works Loans Act, 1875 (38 & 39 Vict., c. 89), under which those advances are now made, expressly provides that every loan granted under that Act shall be repayable by instalments *in the form of an annuity, or otherwise.* Moreover, section 50 of the same Act provides that, except so far as a special Act, by express reference to some part of the Public Works Loans Act, 1875, alters that part, every loan made by the commissioners shall, notwithstanding any provision in such special Act, and any rule of law or custom, be made in accordance with and under the powers of the Public Works Loans Act, 1875, *and be repayable in manner provided by that Act.* There is, therefore, no doubt that advances made to School Boards by the commissioners may be made repayable by annuity, if the commissioners see fit. As regards the present practice of the commissioners in this respect, see above, in page 84.

[1] These clauses will be found in Appendix (1).

[2] As regards the periods for which the commissioners will make these advances, and the rates of interest which they are accustomed to charge, see above, pages 82 and 84.

"The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act, which would have been legal if the said substitution had been made, shall be legal."

The Elementary Education Act, 1876 (39 & 40 Vict., c. 79). Industrial Schools (sec. 15).

By section 28 of the Elementary Education Act, 1870, School Boards are empowered, with the consent of the Education Department, to establish, build, and maintain certified industrial schools, within the meaning of the Industrial Schools Act, 1866, and, for that purpose, are given the same powers as they have for providing sufficient school accommodation for their districts. But the School Board, so far as regards any such industrial school, are made subject to the jurisdiction of the Secretary of State, in the same manner as the managers of any other industrial school, and the school is made subject to the provisions of the Industrial Schools Act, 1866, and not of the Elementary Education Act, 1870.

Consent of Secretary of State required.

These provisions are amended by section 15 of the Elementary Education Act, 1876, which provides that the consent of the Secretary of State, and not of the Education Department, shall be required for the establishing, building, and maintaining of a certified industrial school by a School Board, and to the spreading of the payment of the expense of such establishment and building over a number of years, not exceeding fifty, and to the borrowing of money for that purpose; and that, for the purpose of such borrowing, section 10 of the Elementary Education Act, 1873, shall be held to apply to the loan in like manner as if the Secretary of State were substituted therein for the Education Department; and that such establishment and building shall be deemed to be a work for which a School Board is authorized to borrow, within the meaning of the First Schedule to the Public Works Loans Act, 1875. See page 76.

School Board offices (sec. 42).

Under section 42 of the Elementary Education Act, 1876, where a School Board satisfy the Education Department that, having regard to the large population of the district of such board, it is necessary or proper that the board should provide an office, the Education Department may authorize the board to provide an office, and the board are, for that purpose, to have the same power as they have under the Elementary Education Acts, 1870 to 1873, for the purpose of providing sufficient school accommodation for the district, including the

power of borrowing money, under section 10 of the Elementary Education Act, 1873, and the provision of such office is to be deemed to be a work for which a School Board is authorized to borrow, within the meaning of the Public Works Loans Act, 1875. See page 76.

CHAPTER V.

BORROWING POWERS OF LOCAL AUTHORITIES UNDER LOCAL ACTS AND PROVISIONAL ORDERS.

Borrowing under Local Acts.

Relative importance of borrowing powers under general and local Acts.

In addition to the powers given by general Acts, very large powers of borrowing have been conferred by Parliament on many local authorities by means of local Acts, obtained for special reasons for particular districts, usually with a view to carry out in manner prescribed by the local Act, specified works falling within one or other of the classes of works for which powers of borrowing have been conferred by the general law, but which, for one reason or another, cannot be conveniently carried out without special legislation. The local authorities, by whom the majority of these Acts have been obtained, are urban sanitary authorities and municipal corporations. The number of local Acts promoted every session by these authorities is considerable, and the amounts which have been authorized to be borrowed under them of late years are in excess of the amounts which have been authorized to be borrowed by the same authorities under the general law. Thus, it would appear from the Eleventh Annual Report of the Local Government Board, that, while the sums sanctioned by that board to be borrowed by sanitary authorities during the ten years, from 1872 to 1881, both inclusive, amounted to £24,015,695, the sums authorized to be borrowed by the same authorities under local Acts during the same period, without any sanction on the part of that board, amounted to £33,381,517, exclusive of the unascertained amounts required to be borrowed for the purchase of twenty-five gas and water undertakings, and certain other purposes. These figures, which show the effect which the special legislation of the last ten years has had upon the local indebtedness of the country, render it desirable that some information should be given in the present work of the purposes for which

these extensive borrowing powers have been obtained, and of the practice which has been and is likely in the future to be adopted by Parliament in conferring them.

Borrowing powers under local Acts of 1881.

The following tabular statement, which is taken from the Report of the Local Government Board, to which reference has been made above, gives the names of the sanitary authorities on whom these powers were conferred during the year 1881, the amounts authorized to be borrowed without the sanction of the Local Government Board, the purposes of the loans, the periods prescribed for their repayment, and the titles of the local Acts by which the powers of borrowing were conferred in each case. Except that the amount of the loans authorized to be raised is under the usual average, it may be taken as a fair representation of the ordinary effect of the local legislation of the year on the borrowing powers of sanitary authorities.

Name of Authority.	Extent of Borrowing Powers.	Purpose of Loan.	Term for Repayment.	Name of Local Act.
	£			
Barrow-in-Furness Corporation.	26,500	New streets and street improvements.	60 years	Barrow-in-Furness Corporation Act, 1881.
Ditto - -	35,000	Tramways - -	Ditto -	
Ditto - -	25,000	Sewage lands, sewers, and works.	Ditto -	
Ditto - -	20,000	Cattle market and slaughter-houses.	Ditto -	
Ditto - -	50,000	Municipal offices -	Ditto -	
Ditto - -	5,000	Police stations -	Ditto -	
Ditto - -	5,000	Recreation grounds -	Ditto -	
Ditto - -	15,000	General purposes -	Ditto -	
Ditto - -	12,000	Refuse depots and stables.	Ditto -	
Ditto - -	20,000	Electric lighting -	10 years	
Bingley Improvement Commissioners.	10,000	Ditto - -	Ditto -	Bingley Water and Improvement Act, 1881.
Ditto - -	19,000	Waterworks - -	60 years -	
Ditto - -	15,000	Street improvements	Ditto -	
Ditto - -	10,000	Gasworks - -	—	
Birkenhead Corporation.	40,000	Ferries - - -	70 years -	Birkenhead Corporation Act, 1881.
Ditto - -	60,000	Town hall, sessions court, and other buildings.	Ditto -	
Ditto - -	21,000	Street and other improvements.	Ditto -	
Ditto - -	87,000	Gasworks - -	Ditto -	Birkenhead Corporation (Gas and Water) Act, 1881.
Ditto - -	38,000	Waterworks - -	Ditto -	

Name of Authority.	Extent of Borrowing Powers.	Purpose of Loan.	Term for Repayment.	Name of Local Act.
	£			
Bradford Corporation.	400,000	Waterworks - -	108 years -	Bradford Water and Improvement Act, 1881.
Ditto - -	100,000	Gasworks - -	Ditto -	
Cheltenham Corporation.	20,000	Waterworks - -	70 years -	Cheltenham Corporation Waterworks Act, 1881.
Cleator Moor Local Board Act, 1881.	26,000	Ditto - -	60 years -	Cleater Moor Local Board Act, 1881.
Colne and Marsden Local Board.	50,000	Ditto - -	65 years -	Colne and Marsden Local Board Act, 1881.
Ditto - -	5,500	Street improvements	55 years -	
Ditto - -	20,000	Sewage lands and sewerage purposes.	Ditto -	
Ditto - -	12,000	Markets - - -	Ditto -	
Ditto - -	13,000	Public hall and offices.	Ditto -	
Egremont Local Board.	18,500	Waterworks - -	60 years -	Egremont Local Board Waterworks Act, 1881.
Leicester Corporation.	85,000	Works of flood prevention.	From 70 to 75 years.	Leicester Improvement Act, 1881.
Little Lever Local Board.	5,000	Approaches to a bridge.	60 years -	Lancashire County Justices Act, 1881.
Reading Corporation.	10,000	Town hall - -	70 years -	Reading Corporation Act, 1881.
Ditto - -	11,500	Sewerage and drainage.	Ditto -	
Ditto - -	22,000	Sewage disposal -	Ditto -	
Ditto - -	25,000	Paving works - -	Ditto -	
Ditto - -	9,000	Waterworks - -	Ditto -	
Ditto - -	3,000	Private improvement works.	Ditto -	
Ditto - -	18,000	Loan to school trustees.	Ditto -	
Ditto - -	61,025	Repayment of existing loans.	Ditto -	
Ditto - -	63,000	Redemption of annuities.	Ditto -	
South Stockton Local Board.	Unascertained.	A bridge - -	60 years -	Stockton Bridge Act, 1881.
Stalybridge Corporation.	20,000	Street improvements.	Ditto -	Stalybridge Extension and Improvement Act, 1881.
Stockton Corporation.	Unascertained.	A bridge - - -	Ditto -	Stockton Bridge Act, 1881.
West Ham Local Board.	15,000	New roads and approaches.	Ditto -	West Ham Local Board Extension of Powers Act, 1881.
Ditto - -	12,000	Town hall - -	Ditto -	
Ditto - -	10,000	Sewers and works connected therewith - . -	Ditto -	
Total - £	1,548,025			

Periods allowed for repayment of loans under local Acts.

From the above statement it will be seen that the periods prescribed for the repayment of by far the larger amount of the moneys authorized to be borrowed by local authorities, under the Local Acts of 1881, were considerably in excess of sixty years, which is the longest period allowed for the repayment of loans raised under the general[1] law, and that the repayment of nearly one-third of the amount authorized to be borrowed under those Acts was allowed to extend over 100 years or upwards. Equally long, and in some cases even longer periods have been allowed for the repayment of moneys borrowed under the local Acts of former years; but there was only one instance, in which a longer period than sixty years was allowed for the repayment of moneys authorized to be borrowed under the local Acts of 1882; and for the future it seems improbable that this period will be allowed to be exceeded; for by Standing Order, No. 173A of the House of Commons (to which reference has already been made at page 15), the Committee on any Bill promoted by or conferring powers on a municipal corporation, or local board, improvement commissioners, town commissioners, or other local authority or public body having powers of local government or rating, are prohibited from allowing for the repayment of any loan under the Bill, a longer period in any case than sixty years, or any period disproportionate to the duration of the works to be executed, or the other objects of the loan. This prohibition is in accordance with a recommendation contained in the Report of the Select Committee appointed during the last session by the House of Commons on police and sanitary regulations.

There can be little doubt that the long periods which have been conceded by Parliament to local authorities for the repayment of their loans under local Acts, have induced some authorities to obtain power by means of these Acts to execute works, which might, if necessary, have been carried out under the general law. This inducement, as has been seen, is less likely to operate in the future, owing to the requirements of the Standing Order above quoted, which may also possibly have the effect of reducing, to some extent, the rapid increase of local indebtedness. It is obvious that a local loan should not, if

[1] This period may be allowed to sanitary authorities and the Metropolitan Board of Works, but other local authorities borrowing under the general law, are required to repay their loans in a considerably shorter time. See above, in Chapter IV.

possible, be allowed to remain a charge upon the rates any longer than the works on which it is expended can be reasonably expected to last good, and that the longer the time allowed for the repayment, the more ready the local authority will be to borrow. For this reason it is of much importance that the periods allowed for repayment should not be too long; but it should at the same time be remembered, that if they are too short, the authority may be deterred from undertaking works of public utility, which it is to the interest of society to carry out. At present, it can hardly be argued that the terms fixed by the general law are consistent in this respect, for while as many as sixty years may be allowed for the repayment of loans by sanitary authorities[1] and the Metropolitan[2] Board of Works, fourteen years only are allowed by it for the repayment of a loan raised for the purpose of building a county bridge,[3] twenty for a station house,[4] thirty for a lunatic[5] asylum or a workhouse,[6] and fifty for a harbour[7] or an elementary[8] school. The terms allowed by local Acts differ even more widely; for a hundred years or upwards have been allowed in some cases, for the repayment of loans incurred for purposes precisely similar to those to which other loans have been applied, which have been required to be repaid in thirty years.

Postponement of commencement of sinking funds, &c.

Another concession, which has been granted by Parliament to local authorities with respect to the repayment of moneys borrowed under local Acts, is the postponement of the obligation to commence making provision for such repayment either by a sinking fund or otherwise, until the expiration of a few years after the passing of the Acts. This concession is a valuable one, in cases where the works for which the money is to be borrowed, are of such magnitude that they must necessarily take some years in their construction; for in these cases the mere payment out of current rates of the interest on the money borrowed is a sufficiently heavy burden to the ratepayers, without calling on them to repay any part of the principal during the period that must intervene between the commencement of the works and their completion. The principle of

[1] See above, page 145.
[2] See above, page 103.
[3] See above, pages 127 and 130.
[4] See above, page 129.
[5] See above, page 132.
[6] See above, page 163.
[7] See above, page 173.
[8] See above, page 189.

relieving the ratepayers during this interval from the obligation to provide for the repayment of the money borrowed was recognized last year in more than one[1] instance by the Select Committee on police and sanitary regulations, and there is nothing in the Standing Order above referred to, which seems likely to lead to any modification of the established practice of Parliament in this respect. No such privilege has, it will be observed, been given in any general Act; nor would there appear to be any reason for conferring it, except in cases where the works will take some considerable time in carrying out, and will be useless to the district during the interval.

Nature of borrowing powers given by local Acts.

The fact that a considerable number of local Acts are passed and Provisional Orders confirmed every session, conferring powers of borrowing on local authorities, while the general Acts conferring such powers are carried through Parliament at considerable intervals, has led to the result that the latest and most approved provisions with respect to the raising of local loans are at present to be found in local Acts and Provisional Orders; in fact, special legislation is usually in this, as in other respects, somewhat ahead of the general law. On the other hand, defective as are some of the provisions of the general law, relating to this subject, probably none of them contain such serious defects as are occasionally to be found in the provisions in local Acts, which deal with the borrowing and repayment of moneys by local authorities. The preparation of these provisions is a matter which requires, not merely a certain amount of technical skill on the part of the draftsman, but also a practical acquaintance with the law relating to local loans, and with the ordinary financial transactions of local authorities. It would be invidious to quote instances, but there are some, even in local Acts, which have been promoted by the local authorities of very important towns, in which it is evident that these conditions have not been fulfilled. It may, therefore, be useful to give precedents of clauses containing the ordinary powers of borrowing[2] which are comparatively free from defects.

Precedents.

[1] See the Bolton Improvement Act, 1882 (45 & 46 Vict., c. ccxliv. s. 87), and the Manchester Corporation Act, 1882 (45 & 46 Vict., c. cciii. secs. 63 to 65).

[2] Great attention was paid during the last session to the drafting of the clauses authorizing the creation of local stock, which, with some slight modifications, were uniform in all the local Acts by which this stock was authorized to be issued. Precedents of these clauses will be found in Appendix (4).

Power to borrow for various purposes.

The following clauses, the majority of which have been selected from local Acts which have passed during the last few sessions, will, it is believed, fulfil this requirement.

"(1.) The corporation[1] may, from time to time, independently of any other borrowing power, borrow, at interest, for the purposes of this Act, the sums[2] following, that is to say—

(1.) For[3] the whole sums, not exceeding in pounds.

(2.) For[3] the whole sums, not exceeding in pounds.

(3.) For general purposes, including the costs, charges, and expenses, preliminary and incident to the preparation, obtaining, and passing of this Act, sums not exceeding in the whole pounds.

"The said firstly mentioned sums shall be borrowed on the security of the borough[4] fund or rate, and the other hereinbefore mentioned sums, respectively, shall be borrowed on the security of the district[4] fund and general district rate, and the corporation may mortgage such funds or rates to secure repayment thereof, with interest, accordingly.

Power to borrow further sums with approval of Local Government Board.

"(2.) In addition to the moneys which, by the last preceding section, the corporation are authorized to borrow, they may, from time to time, with the approval[5] of the Local Government Board, borrow, at interest, on the respective securities mentioned in that section, such sum or sums of money as they may require for any of the several purposes for which money is, by that section, authorized to be borrowed.

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[1] Or "local board," or "commissioners," or other local authority, as the case may be.

[2] It is assumed in the clauses that the sanction of the Local Government Board will not be required to the borrowing of the money. On this point, reference should be made to the Standing Orders (House of Commons, 172, House of Lords, 134), which require that estimates of any works for purposes to which the several Acts specified in Part I. of the Schedule to the Local Government Board Act, 1871, relate, shall be recited in the Bill as introduced into Parliament, and proved before the Select Committee to which the Bill is referred, in cases where the money is authorized to be borrowed without the sanction of the Local Government Board.

[3] Here set out the purpose for which the money is to be borrowed.

[4] This form assumes that different loans will be raised on the security of different funds and rates, and the borough fund and borough rate, and the district fund and general district rate, being those most frequently mortgaged are assumed to be the funds and rates mortgaged in this case.

[5] As to the sanction of the Local Government Board being required to loans under local Acts, see also above, page 14.

Powers of borrowing to be in addition to those given by the Public Health Act, 1875.

"(3.) The powers of borrowing money given by this Act shall not be restricted by any of the provisions contained in sections 233 and 234 of the Public Health Act, 1875, and in calculating the amount which the corporation may borrow under the Public Health Act, 1875, any sums which they may borrow under this Act, shall not be reckoned.[1]

Form of mortgage, registration, &c.

"(4.) Every mortgage made by the corporation shall be by deed duly stamped, and, truly stating the consideration; and the provisions of sections [2] 236 to 239, both inclusive, of the Public Health Act, 1875, with respect to the mortgages to be executed by a local authority, shall apply in the case of all mortgages granted under the powers of this Act, except when any such provisions are expressly altered or varied by this Act, and for the purposes of such application the term "local authority," in those provisions, shall mean the corporation.

Coupons for interest on mortgages.

"(5.) The corporation may, from time to time, if they think fit, issue to the holders of their mortgages,[3] coupons for the interest, from time to time, to fall due thereon, in such form as the corporation think fit, so that every coupon shall refer to the mortgage to which it relates, and do specify the amount and time of payment of one half-year's interest to fall due on the principal money secured by the mortgage, and be authenticated in such manner as the corporation shall, from time to time, direct (which authorization shall be presumed until the contrary is shown), and on presentation to the treasurer of a coupon, he shall pay to the person presenting it the amount of interest thereon expressed and thereby appearing to be payable, but the treasurer shall not be bound to make any payment of interest beyond the amount of the money of the corporation then in his hands and applicable in that behalf.

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[1] This provision is usually inserted in local Acts, but in one local Act last year, the Bolton Improvement Act, 1882 (45 & 46 Vict., c. ccxliv., s. 83), a provision was inserted by the Select Committee on Police and Sanitary Regulations to the effect that any moneys borrowed under the powers of that Act for certain purposes should, for the purposes of sub-section (2) of section 234 of the Public Health Act, 1875, be deemed to be borrowed under that Act; and before any money could be borrowed for these purposes, a notice was required to be given under the common seal of the corporation of their intention to borrow the same. Under the Public Health Act, 1875, it will be remembered (see pages 144 and 145) the borrowing power of a sanitary authority is restricted to two years rateable value.

[2] For these provisions, see above, pages 147 to 149.

[3] There is no power under the general law to issue coupons with mortgages, although they may be issued with debentures under the Local Loans Act, 1875. See section 5 of that Act, Appendix (3). It is sometimes a convenience to be able to issue them with mortgages.

"(6.) The corporation may, if they think fit, borrow any moneys which they are, by this Act, authorized to borrow under the powers and subject to the provisions of the Local Loans Act, 1875, by means of a loan or loans to be raised by the issue of debentures, debenture stock, or annuity certificates, or partly in one way, and partly in another. Any moneys borrowed in manner by this section authorized, shall be a charge upon and shall be paid out of the same fund, rates, and securities as they would be charged upon and paid out of, if raised by way of mortgage under the powers of this Act, and such fund, rates, and securities shall, in each case, be deemed the local rate as defined by the Local Loans Act, 1875. Power to borrow under the Local Loans Act, 1875.

Every such loan shall be discharged within years from the time of the original borrowing of the money in respect of which it is raised, and such discharge shall be secured by one or more of the methods, including a sinking fund mentioned in section 13 of the Local Loans Act, 1875, and any sums paid into any sinking fund under this section may, notwithstanding anything in the Local Loans Act, 1875, be invested in any securities in which sinking funds are authorized by this Act to be invested.

"(7.) All moneys borrowed under this Act shall be appropriated to purposes for which they are authorized to be borrowed, and shall be expended exclusively on works or objects on which capital may properly be expended. All moneys received by the corporation, either as purchase-moneys of lands sold, or for equality of exchange, or as consideration for a lease, shall be applied to such works or objects as aforesaid, or the same may, in the discretion of the corporation, be applied towards the reduction of the debt owing by the corporation, or towards the increase of the sinking funds. Provided that after any moneys received in respect of the sale of surplus lands have been applied in reduction of debt or paid into the sinking fund, the extent to which the subsequent payments into the sinking fund are to be reduced shall be such as the Local Government Board shall determine, and so from time to time. Application of moneys borrowed, and other capital moneys.

"(8.) A person lending money to the corporation shall not be bound to see to the application, or be answerable for any loss or non-application of the money lent, or of any part thereof. Protection of lenders from enquiry.

"(9.) The corporation shall not be bound to see to the execution of any trust, whether expressed, or implied, or constructive to which any loan or security for loan given by them may be Corporation not to regard trusts.

subject, but the receipt of the person in whose name any loan or security for loan stands in the books of the corporation shall, from time to time, be a sufficient discharge to the corporation in respect thereof, notwithstanding any trusts to which such loan or security may be subject, and whether or not the corporation have had express or implied notice of any trust or of any charge or incumbrance upon or transfer of such loan or security, or any part thereof or interest thereon, not entered on their books, and the corporation shall not be bound to see to the application of the money paid on any such receipt, or be answerable and accountable for any loss, misapplication, or non-application of any such money.

Power to reborrow.

"(10.) The corporation, for the purposes of paying off any moneys borrowed or raised by them by the creation of mortgages, or by the issue of debentures or debenture stock under and subject to the provisions of the Local Loans Act, 1875, may, from time to time, during the period prescribed by this Act for the repayment of the moneys so borrowed, reborrow such amounts as they may require by the creation of mortgages, or by the issue of debentures or debenture stock, or annuity certificates under and subject to the provisions of the Local Loans Act, 1875, or partly in one way, and partly in another. Provided that all moneys so reborrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such reborrowing has been made, and that the moneys originally borrowed and any amounts from time to time reborrowed under the foregoing provisions for the repayment of such moneys shall, for the purposes of sections 14 and 15 of the Local Loans Act, 1875, be deemed to form the same loan, and the obligations of the corporation with respect to the sinking funds to be set aside in respect of such moneys and, save as herein-after provided, with respect to the appropriation and application of a fixed annual sum for the repayment of such moneys, shall not be in any way affected by reason of such reborrowing.

If the corporation elect to pay off any moneys borrowed by them under this Act by the appropriation of an annual sum, as provided by section 14 of the Local Loans Act, 1875, and any moneys in respect of which the annual sum is appropriated are paid off by means of moneys reborrowed at a different rate of interest than that payable on the moneys paid off by means of such reborrowing, the annual sum shall be reduced or, as the

case may be, increased by the subtraction therefrom or addition thereto of a sum equivalent to the decrease or increase of the interest payable by the corporation in consequence of such repayment and reborrowing.

"(11.) (*a.*) All moneys borrowed or reborrowed by the corporation under this Act shall be repaid within years from the respective dates at which the same were originally borrowed, and, unless raised by the issue of debentures, debenture stock, or annuity certificates under the Local Loans Act, 1875, shall be repaid either by means of yearly or half yearly instalments, or by means of a sinking fund. Provided that if the repayment be made by yearly or half-yearly instalments, and such instalments do not consist of equal amounts, the instalment or instalments payable in each year shall be such that, together with the interest payable in such year in respect of the principal moneys owing, of which such instalment or instalments form part, they shall in every year amount to the same sum. Repayment of moneys borrowed on mortgage.

(*b.*) If the corporation elect to repay by means of a sinking fund any moneys borrowed under this Act, and repayable in accordance with the provisions of this section, they shall, not later than twelve months after the borrowing of such moneys and thenceforth annually set aside out of the revenues and rates, upon the security of which such moneys shall have been borrowed, such a sum as, with accumulations in the way of compound interest, at the rate of three pounds ten shillings per centum per annum, will be sufficient, after payment of all expenses, to repay such moneys within the said period of years; and every sum so set aside as a sinking fund, and every accumulation from time to time arising from the investment of the same, shall forthwith be invested by the corporation in Exchequer bills or other Government securities, or in other securities in which trustees are, by law, for the time being, authorized to invest trust money, or in mortgages, bonds, debentures, debenture stock, corporation stock, or other securities authorized by or under any Act of Parliament passed or to be passed of any local authority, as defined by section 34 of the Local Loans

Act, 1875, with power, from time to time, to vary any such investment.

(*c.*) The corporation may, at any time, apply the whole or any part of any sinking fund, set apart under this section, in or towards the discharge of the principal moneys for the repayment of which the fund has been established. Provided that they thenceforth, until the residue of any of such principal moneys shall have been paid off, pay into the fund every year, and accumulate in addition to the other sums required by this section to be set apart and accumulated, a sum equivalent to the interest which would have been produced by the sinking fund or part of the sinking fund so applied. Provided also, that when the sinking fund is equivalent in value to so much of the moneys for the repayment of which it has been established as remain undischarged, all sums required by this section to be paid into the fund may cease to be so paid, and the annual income of the fund may be applied in payment of the annual interest payable upon the borrowed moneys so remaining undischarged.

Annual return to Local Government Board with respect to repayment.

"(12.) The town clerk shall, within forty-two days after the 31st day of December in each year during which any sum is required to be set apart for a sinking fund, or to be paid by way of instalment under this Act, transmit to the Local Government Board a return in such form as may be prescribed by that board and verified by statutory declaration if so required by the said board, showing the amount which has been paid off by way of instalment, and the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same and the interest thereon has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund, and the interest thereon been applied during the same period, and the total amount remaining invested at the end of the year, and in the event of any wilful default in making such return, the town clerk shall be liable to a penalty not exceeding twenty pounds, to be recovered by the Local Government Board in a summary manner. If it appear to the Local Government Board by such return, or otherwise, that the corporation have failed to pay any instal-

ment, and to set aside the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund, or any interest thereof to any purposes other than those authorized by this Act, the Local Government Board may, by order, direct that a sum not exceeding double the amount in respect of which such default shall have been made, shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of *mandamus* to be obtained by the Local Government Board out of the High Court of Justice, and the provisions of this section shall apply, *mutatis mutandis*, to appropriations and annual repayments under the Local Loans Act, 1875."

Sinking fund for redemption of perpetual annuities, and moneys borrowed to redeem annuities.

As has been already mentioned (page 8), it not unfrequently happens that on the purchase by a local authority of a gas or water undertaking, the consideration for the purchase is the issue of perpetual annuities, payable by the local authority to the shareholders and their assigns. These annuities cannot at present be issued under the general law; but power to create them is often given in local Acts. Where this is done, it becomes necessary to provide for the establishment of a sinking[1] fund for the purpose of redeeming them within a fixed period, and power is also usually given to borrow money for the purpose of redeeming them, because favourable opportunities may occur of buying them up, when there is not sufficient money in the sinking fund for this purpose. It becomes necessary, in these cases, to determine a capitalized value of the annuities for the purpose of the sinking fund, and this value is usually taken at £25 for every £1 of annuity; the average rate of interest payable on local securities being £4 per cent. or thereabouts. It is usually convenient to establish one sinking fund for the redemption of the annuities, and the repayment of moneys borrowed for the purpose of redeeming them, for the same reason that it is convenient to make no change in a sinking fund, when the moneys for the repayment of which it is set aside are reborrowed. The following precedent may be

[1] It has sometimes been contended that these annuities stand on a different footing from other local loans, as regards the necessity of providing a sinking fund for their redemption. This contention cannot, however, be sustained; for the desirability of redeeming the loan incurred on the purchase of an undertaking is manifestly the same, whether the loan is raised by way of annuity, debenture, or debenture stock, or any other security, the payment of which does not determine by effluxion of time; and the practice of Parliament is now invariably to require a sinking fund to be established for their redemption.

useful, when it is necessary to provide for the establishment of a sinking fund for these purposes:--

Precedent. "The corporation shall redeem all annuities created as aforesaid, within years from the creation thereof respectively, and for the purpose of redeeming such annuities as aforesaid, the corporation may from time to time in the event of the sinking fund herein-after directed to be established for the redemption of such annuities, being insufficient in amount for that purpose, borrow in addition to any sums which they are by this Act authorized to borrow any moneys that may be necessary on the security of the revenues, rates and funds upon which such annuities are a charge; but all moneys so borrowed shall be repaid within a period of years from the creation of the annuities, for the redemption of which the same were respectively borrowed.

In order to create a sinking fund for the redemption of all annuities redeemable under this section, and for the discharge of all moneys borrowed for their redemption, as aforesaid, the corporation shall not later than twelve months from the creation of such annuities, and thenceforth annually set aside out of the revenues, rates and funds on which such annuities are a charge, such a sum as will, with the accummulations in the way of compound interest, at the rate of three pounds ten shillings per centum per annum, after payment of all expenses amount in years to the capitalized value of such annuities (and for this purpose £25 shall be taken to be the capitalized value of every £1 of annuity), and every sum so set aside as a sinking fund, and every accumulation from time to time arising from the investment of the same, shall forthwith be invested by the corporation in Exchequer bills or in other Government securities, or in other securities in which trustees are by law for the time being, authorized to invest trust money or in mortgages, bonds, debentures, debenture stock, corporation stock, or other securities authorized by or under any Act of Parliament passed or to be passed, of any local authority, as defined by section 34 of the Local Loans Act, 1875, with power from time to time to vary any such investment.

The corporation may at any time apply the whole or any part of any sinking fund set apart under this section in or towards the redemption of the annuities, for the redemption of which the fund has been established, or in or towards the discharge of any principal moneys which have been borrowed for the pur-

pose of such redemption. Provided that they thenceforth until the residue of any of such annuities have been redeemed, and the residue, if any, of such principal moneys shall have been discharged, pay into the fund every year, and accumulate in addition to the other sums by this section required to be set apart and accumulated a sum equivalent to the interest which would have been produced by the sinking fund, or part of the sinking fund so applied. Provided also that when the sinking fund is equivalent in value to the capitalized value to be ascertained as aforesaid, of so many of the annuities for the redemption of which the fund was established as remain unredeemed, together with the amount, if any, of such principal moneys borrowed as aforesaid as remain undischarged, all sums required by this section to be paid into the fund may cease to be so paid, and the annual income of the fund may be applied in payment of such unredeemed annuities, or the annual interest payable upon such undischarged principal moneys, or partly in one way, and partly in the other. But such power shall in no way diminish the obligation of the corporation to redeem the whole of the said annuities within the aforesaid period of years."

Borrowing under Provisional Orders.

Provisional Orders.

Besides the powers of borrowing possessed by local authorities under the general law and local Acts, important powers of borrowing have been given in some cases by means of Provisional Orders. Of these orders, some, *e.g.*, those under the Gas and Waterworks Facilities Acts, and the General Pier and Harbour Act, authorize the carrying on of undertakings by local authorities, and confer incidentally the power of borrowing in order to raise the amount of capital necessary for this purpose. Others, *e.g.*, those under sections 297 and 303 of the Public Health Act, 1875, amend or extend previous Acts, which have already given powers of borrowing. The latter description of orders have of late years greatly increased in number and importance; and it will be convenient to treat of them in the first instance. It may be observed, in passing, that no Provisional Order is of any effect until it has been confirmed by Parliament. All such orders referred to in the present work have, however, been so confirmed.

Provisional Orders under Section 303 of the Public Health Act, 1875.

Power to repeal, alter, or amend local Acts.

The most numerous and important class of Provisional Orders, which are obtained by local authorities in connexion with their loans, are made under section 303 of the Public Health Act, 1875, which enables the Local Government Board, on the application of the sanitary authority of the district, wholly or partially to repeal, alter, or amend Local Acts by Provisional Orders. One of the purposes for which a Provisional Order is most frequently required under this section is to extend the amount, which the local authority are empowered to borrow under a local Act. From the number of orders, which are annually issued for this purpose, it is evident that it often becomes necessary to exceed the estimates on which the borrowing powers have been given under the local Act. The following figures, which give the amounts which local authorities have been empowered to borrow in excess of estimates by means of Provisional Orders issued by the Local Government Board during the last three years, show that the aggregate amount thus authorized to be borrowed during that period has been £1,696,000. This amount was made up as follows :—

Extension borrowing of powers.

Amounts thus authorized to be borrowed.

1880.	£
Aberavon Local Board - - -	7,500
Ashton-in-Makerfield Local Board -	12,000
Barnsley Town Council - - -	20,000
Bethesda Improvement Commissioners	10,000
Burnley Town Council - - -	80,000
Haworth Local Board - - -	8,000
Lincoln Town Council - - -	50,000
Manchester Town Council - -	450,000
Middlesbrough Town Council - -	100,000
Ossett-cum-Gawthorpe Local Board -	5,500
Oswaldtwistle Local Board .	8,000
Ramsgate Improvement Commissioners	40,000
Rochdale Town Council - - -	80,000
Southport Town Council - - -	30,000
Stockton Town Council - - -	100,000
York Town Council - - - -	15,000

1881.	£
Buxton Local Board - - -	10,000
Halifax Town Council - - -	10,500
Leeds Town Council - - -	80,000
Manchester Town Council - -	100,000
Middleton and Tonge Improvement Commissioners - - - -	20,000
Wallasey Local Board - - -	22,000
Whitehaven Rural Sanitary Authority -	7,000
1882.	
Ashton-under-Lyne Town Council -	30,000
Lytham Improvement Commissioners -	5,800
Rochdale Town Council - - -	100,000
Salford Town Council - - -	150,000
Smethwick Local Board - - -	75,000
Sowerby Bridge Local Board - -	5,000
Stafford Town Council - - -	10,000
Walsall Town Council - - -	50,000
York Town Council - - - -	4,700
Total - -	1,696,000

Another purpose for which these orders are frequently required is to amend the provisions of one or more local Acts relating to the repayment of borrowed moneys. These provisions are often very defective in detail, and it is found convenient to amend them by the inexpensive process of a Provisional Order. For precedents of this description of order, reference may be made to the Beverley, Briton Ferry, Buxton, Haworth, Middleton and Tonge, and Rotherham Orders of 1880, the Atherton, Leeds, and Lytham Orders of 1881, and the Heckmondwike, Salford, Sowerby Bridge, and Walsall Orders of 1882.[1] Perhaps the most useful of these for the purposes of general reference, are the Rotherham and Buxton Orders. The former of these amended and made uniform the provisions relating to the repayment of loans

Amendment of provisions in local Acts relating to repayment of loans.

Rotherham Order of 1880.

[1] These Orders were confirmed by the 43 & 44 Vict., c. xxxvi., 43 & 44 Vict., c. clxxviii., 44 Vict., c. i., 44 & 45 Vict., c. lxvi., 44 & 45 Vict., c. xcviii., 45 & 46 Vict., c. lxii., 45 & 46 Vict., c. lxiii., and 45 & 46 Vict., c. xcvii.

raised under four local Acts. The substantive parts of this order[1] are as follows :—

"Art. I. Sections 73 and 94 of the Act of 1863, section 66 of the Act of 1870, and section 28 of the Act of 1875, shall be repealed, except so far as the same may have been acted upon.

"Art. II. So much of section 31 of the Act of 1875 as enacts that the provisions of the Act of 1870, with respect to paying off mortgages on the waterworks undertaking by means of the sinking fund or by annual instalments, shall be applicable in the case of mortgages on the waterworks undertaking, granted under the powers of the Act of 1875, as if the mortgages granted under that Act had been granted under the Act of 1870, shall be repealed, except so far as the same may have been acted upon.

"Art. III. So much of section 98 of the Act of 1879 as requires the said sum of five thousand eight hundred pounds to be repaid by the corporation by annual instalments within forty years from the expiration of the said period of seven years from the passing of the Act of 1863, shall be repealed, except so far as the same may have been acted upon..

"Art. IV. The Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, shall be altered and amended so as to provide that all sums which at the commencement of this Order have been set aside by the local board or the corporation, or which should have been so set aside, as sinking funds under the provisions contained in the sections of those Acts wholly or partially repealed by this Order, together with the sums which have or should have accumulated in respect thereof, shall, so far as the same have not been applied in the repayment of the moneys for the repayment of which they have been respectively set aside and accumulated, be forthwith applied after the commencement of this Order in or towards the repayment of such moneys, or pending such application, be invested in any of the securities in which sinking funds may be invested under the provisions of this Order.

"Provided that, for the purposes of this Article, the Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879 shall be deemed to have been amended as from the passing of

[1] As precedents of this and other Orders are likely to be of practical assistance to local authorities, they are given somewhat fully in the following pages.

those Acts respectively in manner provided by Articles V. and VI. of this Order.

"Art. V. The Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, shall be further altered and amended, so as to provide that the corporation shall repay the moneys borrowed by the local board or corporation before the commencement of this Order, or by the corporation after the commencement of the Order, under those Acts as herein-after mentioned, within the periods herein-after prescribed, that is to say:—

"(1.) As regards all moneys borrowed under the Act of 1863, for waterworks purposes, on or before the expiration of forty-seven years from the passing of that Act;

"(2.) As regards all moneys borrowed under the Act of 1863, on the security of the stallages, rents, and tolls taken by the corporation in respect of their markets and fairs, on or before the expiration of thirty-five years from the date of the borrowing in each case;

"(3.) As regards all moneys borrowed under the Act of 1870 for waterworks purposes by mortgage or by the grant of water annuities, on or before the expiration of forty-five years from the passing of that Act;

"(4.) As regards all moneys borrowed under the Act of 1875 for the purposes of the said bridge or road, on or before the expiration of thirty years from the date of the borrowing in each case;

"(5.) As regards all moneys borrowed on mortgage of the water undertaking under the Act of 1875, within forty-five years from the date of the borrowing in each case;

"(6.) As regards the said sum of five thousand eight hundred pounds authorized to be borrowed under the Act of 1879, within forty-seven years from the passing of the Act of 1863.

"Art. VI. The several moneys so borrowed and to be borrowed as aforesaid under the Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, except so much of the moneys so borrowed as shall have been repaid before the commencement of this Order, and except so much of the moneys so borrowed as the sums required by Article IV. of this Order to be applied in or towards the repayment of such moneys shall, at the commencement of this Order, be sufficient to repay, shall be respectively repaid by the corporation within so much

of the periods respectively prescribed by Article V. of this Order as shall remain unexpired at the commencement of this Order; and such repayment shall be made by equal annual or half-yearly instalments of principal or of principal and interest combined, or by means of sinking funds set apart, accumulated and applied, subject to the provisions of this Order, in accordance with the provisions contained in sub-sections (4) and (5) of section 234 of the Public Health Act, 1875.

"Provided that such sinking funds may be invested, not only in the purchase of Exchequer bills or other Government securities, but also in the mortgages, debentures, stock, or other securities duly created or issued by any local authority, as defined by the Local Loans Act, 1875, other than the corporation, and in any other securities in which trustees are by law for the time being authorized to invest.

"Provided also, that any interest which may from time to time be received by the corporation after the commencement of this Order in respect of the sums directed by Article IV. of this Order to be applied in or towards the repayment of the moneys for the repayment of which they have been respectively set aside and accumulated before the commencement of this Order, shall be paid into the corresponding sinking funds set aside after the commencement of this Order for the repayment of such moneys respectively, or be applied in the repayment by instalments of such moneys respectively; and the sums required by this Order to be paid into such last-mentioned sinking funds respectively, or to be repaid by way of instalments shall be diminished to the extent of the payments so made.

"Art. VII. All payments required to be made under this Order by instalments or to sinking funds, so far as they are not made in accordance with the provisions of this Order, out of the sums directed to be applied under Article IV. of this Order, or out of the interest received by the corporation in respect of such sums after the commencement of this Order, shall be made from the same sources respectively, out of which the corresponding payments were required to be made to sinking funds under the provisions contained in the sections of the Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, wholly or partially repealed by this Order.

"Art. VIII. The Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, shall be further altered and

amended so as to provide that all mortgages made by the corporation under those Acts respectively after the commencement of this Order for the purpose of reborrowing moneys to be applied in the repayment of other moneys from time to time owing on mortgage, shall have the same priority as regards the other mortgages and debts of the corporation as the mortgages had which are paid off by means of such reborrowing.

"Art. IX. The Act of 1870 and the Act of 1879 shall be altered and amended so as to provide that any sinking fund set aside by the corporation under either of those Acts may be invested in any of the securities in which sinking funds may be invested under the provisions of this Order.

"Art. X. The Act of 1863, the Act of 1870, the Act of 1875, and the Act of 1879, shall be further altered and amended so as to provide as follows:—

"(*a.*) The town clerk of the borough shall, within twenty-one days from the expiration of one year from the commencement of this Order, and within twenty-one days from the expiration of every succeeding year during which any sum is required to be paid as an instalment or to be set aside as a sinking fund under the provisions of this Order, transmit to the Local Government Board a return, in such form as may be prescribed by that board, and verified by statutory declaration, if so required by them, showing the amounts which have been paid as instalments, or applied to the discharge of borrowed moneys, and the amounts which have been invested or applied for the purposes of any sinking fund, during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of any sinking fund or investment, or of the sums accumulated by way of interest, has been applied during the same period, and the total amount (if any) remaining invested at the end of the year.

"(*b.*) If it appears to the Local Government Board, by that return or otherwise, that the corporation have failed to comply with the requirements of Article IV. of this Order, or to pay any instalment required to be paid, or to set apart any sum required for any sinking fund, or have applied any portion of the money set apart, or of

the sums accumulated by way of interest, to any purposes other than those authorized, they may, by order, direct that a sum not exceeding double the amount in respect of which default has been made, shall be paid by way of instalment, or be applied to the discharge of the moneys borrowed, or, as the case may be, set apart and invested, or applied as part of the sinking fund; and any such Order shall be enforceable by writ of *mandamus*, to be obtained by the Local Government Board out of Her Majesty's High Court of Justice."

Buxton Order of 1880.

In the Buxton case, it appears from the recitals to the Order, that the local board had been empowered under two local Acts to borrow money, repayable within fifty years by equal annual instalments of principal and interest, or by means of a sinking fund; and they had borrowed some moneys under those Acts, which were repayable by equal annual instalments in thirty years, and other moneys, which were not repayable by instalments. The consequence of this arrangement was that they were repaying annually larger amounts by way of instalments on account of a portion of their loans, than they need have set aside as a sinking fund for the repayment of all their loans under these Acts, if they had elected to repay them by means of a sinking fund. They accordingly applied to the Local Government Board for a Provisional Order to amend these Acts in such a manner as to relieve the ratepayers from the extra burden thus imposed upon them, without altering the terms of repayment agreed upon between the local board and their mortgagees. This object was effected by means of the following provisions:—

"Art. I. The Act of 1873 shall be altered and amended so as to provide that any repayments of principal which the local board may have made before, or may make after the commencement of this Order in respect of moneys borrowed by them under the Act of 1873 for the purposes of their water undertaking shall, except as herein-after provided, be deemed to have been payments made into a sinking fund set aside by the local board for the repayment of all moneys borrowed by them under the Act of 1873 for the purposes of their water undertaking.

"Provided that if at any time the total amount of the repayments so made as aforesaid shall be in excess of the total amount which should have been standing to the credit of such sinking fund, the amount for the time being so in excess may

be reborrowed by the local board, under and subject to the provisions of the Act of 1873, as amended by this Order.

"Art. II. The provisions of Article I. of this Order shall apply, *mutatis mutandis*, to any repayments of principal which the local board may have made before, or may make after the commencement of this Order in respect of moneys borrowed by them under the Act of 1870, and the Act of 1873 as amended by the said Provisional Order for the purposes of their gas works undertaking, and shall also apply, *mutatis mutandis*, to any repayments of principal which the local board may make after the commencement of this Order in respect of moneys borrowed by them under the Act of 1873, for purposes other than purposes of their waterworks and gasworks undertakings.

"Art. III. Any moneys which may be reborrowed under the powers of reborrowing conferred by this Order, shall be repaid within the period within which the original loan in respect of which such moneys are reborrowed would have been required by the Act of 1873, or the said Provisional Order to be repaid, and no such reborrowing shall affect the obligation of the local board with respect to the sinking funds herein-after referred to.

"Art. IV. For the purposes of this Order, the amounts which should from time to time be standing to the credit of the respective sinking funds for the repayment of the moneys borrowed before or after the commencement of this Order by the local board, under the Act of 1870, and the Act of 1873, as amended by the said Provisional Order, for water, gas, or other purposes, shall be taken to be such amounts as would from time to time have been standing to the credit of such funds respectively if such funds had been set aside and invested, in accordance with the provisions of sub-sections (1) and (3) of section 15 of the Local Loans Act, 1875, and the first payment into the funds for the repayment of the moneys borrowed for water purposes had been made at the expiration of five years from the passing of the Act of 1873, and the first payment into each of the other of such funds had been made at the expiration of one year from the date of the borrowing of the moneys in respect of which such fund had been set aside.

"Art. V. Subject as herein-before provided, the provisions of sub-sections (1), (2), (3), (4), and (7) of section 15 of the Local Loans Act, 1875, shall apply, in lieu of the provisions with respect to sinking funds contained in the Act of 1873, to the sinking funds set aside and deemed to be set aside by the local

board for the repayment of moneys borrowed by them as aforesaid for water, gas, and other purposes, and the prescribed period for the repayment of moneys borrowed for water and gas purposes shall be fifty years from the date of the original borrowing in each case, and the prescribed period for the repayment of moneys borrowed for other purposes shall be thirty years from the date of the original borrowing in each case.

Provided the prescribed rate of accumulation for each sinking fund shall be deemed to be three pounds per centum per annum, except that in the cases of the sinking funds set aside for the repayment of the twenty thousand pounds borrowed as aforesaid, under the Act of 1870, the fifteen thousand pounds borrowed as aforesaid, under the Act of 1873, for water purposes, and the five thousand pounds borrowed as aforesaid, under that Act, for gas purposes, on terms of repayment within a period of thirty years from the date of the borrowing thereof, the prescribed rate of accumulation shall be deemed to be four pounds per centum per annum."

Legalising of mortgages created in excess of borrowing powers. Example.

Another purpose, for which Provisional Orders altering local Acts have been required on several occasions, has been to render valid mortgages, which have been created in excess[1] of the borrowing powers of the sanitary authority under such Acts. The following is an example of the provisions usually adopted in such cases:—

"Section of the local Act shall be altered and amended in such a manner,—

"(1.) That the total amount thereby authorized to be borrowed for the purposes of the local Act shall be deemed to have been thousand pounds, and not thousand pounds as provided in that section;

"(2.) That so much of the said sum pounds, borrowed as herein-before recited, as has been borrowed in excess of the amount authorized to be borrowed under the local Act, shall be deemed to have been authorized to be so borrowed by that Act; and

"(3.) That such of the mortgages existing at the commencement of this Order for securing the said sum of as have been made by the local board in excess of their borrowing powers under the local Act shall, to all intents and purposes, be as valid as if they had been authorized to be made under the local Act."

[1] As to the serious results which are occasioned by borrowing in excess of borrowing powers, see pages 19 and 20.

In some instances it unfortunately happens that from miscalculations, or misapprehensions as to the construction of the local Act, or from other reasons, the local authority are considerably in arrear in their sinking fund accounts. In such cases, it becomes necessary, before further borrowing powers are conferred, to come to some arrangement for making good these deficiencies within a limited period, which varies according to the extent of the arrears and the capacity of the district for that purpose. The following is an example of provisions of this description :— Allowing time for making good sinking fund deficiencies. Example.

"The corporation shall, within years from the commencement of this Order, out of the rates, funds, and revenues, out of which the same should have been appropriated and set apart, appropriate and set apart as sinking funds, the amounts which before the commencement of this Order, should have been so appropriated and set apart, in accordance with the requirements in that behalf contained in the Acts of and , respectively, and which have not been so appropriated and set apart, and the amounts to be annually appropriated and set apart under this Article shall be such as the corporation, with the approval of the Local Government Board shall, in each year, determine.

"The corporation shall apply all sums appropriated and set apart under this Article, in the repayment of the principal moneys in respect of which such sums were respectively appropriated and set apart as sinking funds, and pending such application, shall invest such sums in any of the securities, in which sinking funds may be invested under this Order."

The borrowing powers of sanitary authorities, under the general law, for the purpose of private improvement works are not altogether satisfactory.[1] The expenses of these works are recoverable from the owners, and, as a general rule, the owner is allowed the option of repaying them immediately[2] on the completion of the works, or by annual instalments with interest extending over a series of years, varying, according to the discretion of the authority, usually from three to ten years. By section 234[3] of the Public Health Act, 1875, where an urban sanitary authority borrow for the purpose of defraying Borrowing for private improvement expenses.

[1] They will be found above on reference to pages 146 and 147.

[2] In the metropolis, the money is required to be paid before the works are commenced; and this is evidently the simplest way, and the only certain way to prevent loss accruing to the general rates.

[3] See above, page 146.

these expenses, it becomes their duty, as between the ratepayers of the district, to make good the money so borrowed, as occasion requires, out of private improvement rates. Assuming that the sanitary authority were sure, when it becomes necessary to borrow for these works, that all the owners would avail themselves of the option of spreading the repayment over the period allowed them by the local authority, there would be an inconvenience in raising the loan for these works for the short period thus allowed in consequence of the recurring expenses thereby entailed, and for other reasons. But, as a matter of fact, it often happens that a considerable portion of the money is repaid immediately, and as the sanitary authority cannot insist on the mortgagee receiving it back before the end of the period, the question arises, what they are to do with it? Obviously a convenient method of using it would be to employ it on the construction of new works of private improvement, but there seems to be no power given by the Public Health Act to use it in this manner. If it is placed in a sinking fund, or retained in hand to repay the mortgage when it falls due, there is a loss of interest, for the rate of interest on the investment of the fund, or on the money, if deposited in a bank, will not be as high as the rate of interest payable on the loan. Moreover, urban sanitary authorities sometimes find it desirable to do work of this description, in comparatively small quantities, as the occasion for it arises. And as it is necessary for them to obtain the sanction of the Local Government Board to every loan under the Public Health Act, they have to apply for this sanction, from time to time, on every occasion when they propose to borrow for this purpose, however small the loan may be, or however insignificant or ordinary the works for which the loan is required. These inconveniences have led to the obtaining of powers by means of local Acts to borrow for the creation of funds out of which the expenses of the execution of private improvement works may be defrayed; see, for example, the Stalybridge Extension and Improvement Act, 1881 (44 & 45 Vict., c. cxci., s. 124). By this means the local authority can have a working capital in hand for works of this kind without the necessity of applying from time to time for sanction to borrow. The clauses, which have usually been obtained for this purpose, are, however, open to the objection that they do not require the money thus borrowed to be repaid within a prescribed period, but allow it to remain as a

Practical inconveniences.

How met.

Stalybridge Extension and Improvement Act, 1881.

debt in perpetuity. This is contrary to the principle which has been adopted by Parliament of late years in sanctioning local loans; and there seems to be no necessity for drawing such a distinction between money borrowed for this and other purposes. The following provisions of the Ashton-under-Lyne Provisional Order of 1882 (confirmed by the 45 & 46 Vict., c. clxiii.), which amended the Ashton-under-Lyne Improvement Act, 1877, are not open to this objection; the capital raised for the purpose of these works being thereby required to be repaid within forty years from the time of borrowing:—

Ashton-under Lyne Provisional Order of 1882.

"Art. III. Section 28 of the Act of 1877 shall be altered and amended so as to enable the corporation, in addition to the sums therein specified, to borrow and reborrow, from time to time, under and subject to the provisions of the Act of 1877 as hereby amended, on the security of their borough fund, and all or any rates or rate leviable by them in the borough, for the purpose of defraying the 'new street expenses' referred to in section 13 of the Act of 1877 (herein-after referred to as 'new street expenses'), any sum or sums not exceeding in the whole the sum of thirty thousand pounds.

"Provided that of the said sum of thirty thousand pounds no more than twenty thousand pounds may be borrowed without the sanction of the Local Government Board.

"Art. IV. The corporation shall pay off all moneys borrowed by them under Article III. of this Order within forty years from the dates when the same were respectively borrowed, by any of the following means, viz., by equal yearly or half-yearly instalments of principal, or of principal and interest, or by setting apart in every year as a sinking fund, and accumulating in the way of compound interest by investment of the sums so set apart in the purchase of Exchequer bills or other Government securities, or in securities in which trustees are by law for the time being authorized to invest, or in securities issued by any local authority as defined by section 34 of the Local Loans Act, 1875, other than the corporation, such sums as will, with the accumulations, be sufficient, after payment of all expenses, to pay off all such moneys within forty years from the dates when the same were respectively borrowed.

"Provided that the corporation may, at any time, apply the whole or any part of any sinking fund set apart under this Article in or towards the discharge of the moneys for the repayment of which the fund has been established, but in any

such case they shall pay into the fund in each year, and accumulate, until the whole of the moneys for the repayment of which the fund has been established are discharged, a sum equal to the interest which would have been produced by the fund or the part of the fund so applied: Provided also, that when the sinking fund is equal in value to so much of the moneys, for the repayment of which it has been established, as remain undischarged, all sums required by this Article to be paid into the fund may cease to be so paid, and the annual income of the fund may be applied in payment of the annual interest payable upon the borrowed moneys so remaining undischarged.

"Art. V. The corporation shall keep separate accounts of all moneys expended and recovered by them in respect of new street expenses, and shall pay out of the moneys so recovered the interest from time to time accruing in respect of moneys borrowed under Article III. of this Order, and the amounts of the instalments required to be paid and the amounts required to be set aside as sinking funds under Article IV. of this Order, and shall either apply the residue of the moneys so recovered in defraying new street expenses or in the repayment of moneys borrowed under Art. III. of this Order, or carry the same to the credit of the sinking funds to be set aside under Article IV. of this Order, in addition to the other amounts required to be set aside as sinking funds under that Article.

"Art. VI. In the event of the moneys recovered by the corporation in respect of new street expenses in any year being insufficient to pay the interest on the moneys borrowed under Article III. of this Order, and the amounts of the instalments required to be paid, and the amounts required to be set aside as sinking funds under Article IV. of this Order, the corporation shall pay the deficiency out of their borough fund."

Provisional Orders under Section 297 of the Public Health Act, 1875.

Power to repeal, alter, or amend Acts confirming Provisional Orders.

Under section 297 of the Public Health Act, 1875, the Local Government Board may, by Provisional Order, repeal, alter, or amend any Act confirming any Provisional Order made in pursuance of any of the Sanitary Acts,[1] or of the Public Health Act. This section is of service in enabling Provisional Orders

[1] A list of these Acts will be found in note 2, page 142.

to be issued, amending and extending the provisions with respect to borrowing, contained in former Provisional Orders. The most noticeable Order of this description, which has been issued of late years, is the Birmingham Provisional Order of the 3rd of May, 1882, which was confirmed by the Local Government Board's Provisional Orders Confirmation (No. 3) Act, 1882 (45 & 46 Vict., c. lxi.). The object of this Order was to enable the corporation of Birmingham to borrow money for the purpose of lending it to the Birmingham Guardians, the Birmingham School Board, and the Birmingham, Tame, and Rea Main Drainage Board, on the same principle that the Metropolitan Board of Works are authorized to borrow for the purpose of lending money to the lesser local authorities in the metropolis.[1] As a general rule, a larger and better known local authority, such as the corporation of Birmingham or the Metropolitan Board of Works, can obtain its loans on better terms, than can be obtained by a smaller authority; and there is, therefore, a considerable saving to the ratepayers, when the loans are negotiated by the larger authority. It seems probable that as time goes on, the Metropolitan and Birmingham precedents may be followed in other cases; and it may, therefore, be useful here to set out the substantive provisions of the Birmingham Order. They are as follows :—

Birmingham Provisional Order of 1882.

Object of Order.

Larger authorities lending to smaller ones

"Art. I. The corporation may from time to time, by resolution, determine that any sum or sums, which the guardians of the poor of the parish of Birmingham, the Birmingham School Board, and the Birmingham, Tame, and Rea District Drainage Board (herein-after referrred to as 'the borrowing authorities'), or any one or more of them, may be by law authorized to borrow upon the security of any properties, rates, or funds, and which the borrowing authorities, or any one or more of them, may be respectively desirous of borrowing from the corporation, shall be raised by the corporation by the creation and issue of stock, subject to the provisions of the Orders of 1880 and 1881, as amended by this Order, and the amount of stock necessary for raising any such sum or sums may be created and issued accordingly.

Birmingham Corporation empowered to lend to other local authorities.

"Pending the creation and issue of such stock the corporation may temporarily raise any such sum or sums on mortgage of the borough fund and borough rate of the borough; and the

[1] See pages 104 and 105.

provisions of sections 236 to 239, both inclusive, of the Public Health Act, 1875, shall apply to every mortgage made for this purpose.

"Art. II. Every sum raised under Article I. of this Order shall be lent by the corporation to the borrowing authority so desirous of borrowing the same as aforesaid for a period not exceeding the period for which the borrowing authority is authorized to borrow or reborrow the same.

"Art. III. All sums received by the corporation in respect of interest on any moneys lent by them under Article II. of this Order shall, until such moneys have been raised by the creation and issue of stock, be carried to the credit of the borough fund; and, save as aforesaid, all sums received by the corporation from the borrowing authorities in respect of any moneys lent by them under Article II. of this Order, shall be paid into the loans fund required to be established under Article IV. of the Order of 1880;[1] and the return required to be transmitted to the Local Government Board under Article VI. of that Order shall, in addition to the other particulars required to be shown therein, show the amounts which have been from time to time paid into the loans fund in accordance with the provisions of this Article.

"Art. IV. The corporation may from time to time make, vary, and amend regulations as to the notices to be given to them by the borrowing authorities of the intention of such authorities to borrow from the corporation, and as to the terms and conditions on which the corporation will lend money to the borrowing authorities."

Provisional Orders under Gas and Waterworks Facilities Acts.

Public Health Act, 1875 (38 & 39 Vict., c. 55, s. 161).

Under section 161 of the Public Health Act, 1875, urban sanitary authorities may, in certain cases, supply gas for public and private purposes throughout the whole or any part of their district, and, where they undertake to do so, they may obtain from the Local Government Board a Provisional Order under the Gas and Waterworks Facilities Acts, 1870 and 1873, authorizing a gas undertaking. Where these Orders are ob-

33 & 34 Vict., c. 70, and 36 & 37 Vict., c. 89.

[1] The Order of 1880 is a Provisional Order under section 303 of the Public Health Act, authorizing the creation by the corporation of corporation stock. The loans fund above referred to is the loans fund required to be set aside for the payment of the dividends on, and the redemption of the stock created under that Order.

tained, the general borrowing powers of the urban sanitary authority, under the Public Health Act,[1] are by the Orders made available for the purposes of the undertaking; but it is usual to confer, by the Order, further powers of borrowing, which are to be deemed to be distinct from and in addition to the powers of borrowing conferred by the Public Health Act. See, for example, the following provisions, which are to be found in the Upper Sedgley (Gas) Provisional Order of 1882, confirmed by the Local Government Board's (Gas) Provisional Order Confirmation Act, 1882 (45 & 46 Vict., c. clxix).

Precedent. The Upper Sedgley (Gas) Order of 1882.

"Art. XIV. The urban sanitary authority may, with the sanction of the Local Government Board, for the purposes of the gas undertaking hereby authorized, borrow money upon the security of the moneys from time to time received by them by way of revenue under this Order, and upon the security of the district fund and general district rate of their district, or upon either of such securities.

"Art. XV. For the purpose of raising moneys under the powers conferred by Article XIV. of this Order, the provisions of the Local Loans Act, 1875 (including the power of creating debenture stock), shall be available to the urban sanitary authority, and sections 236 to 239, both inclusive, of the Public Health Act, 1875, shall apply to all money raised and borrowed under that Article, other than money borrowed under the provisions of the Local Loans Act, 1875.

"Art. XVI. Any money borrowed by the urban sanitary authority under the provisions of Article XIV. of this Order, or otherwise, for the purposes of the gas undertaking hereby authorized, shall be repaid within such period (not exceeding fifty years) as the urban sanitary authority, with the sanction of the Local Government Board, shall determine, and the period so determined and sanctioned shall be deemed to be the 'prescribed period' within the meaning of the Local Loans Act. 1875.

"Art. XVII. The urban sanitary authority shall repay the money borrowed under Article XIV. of this Order, other than money borrowed under the provisions of the Local Loans Act, 1875, either by equal annual instalments of principal, or of principal and interest, or by setting apart in every year as a sinking fund such a sum or sums as will, according to a reason-

[1] As to these powers, see above, pages 142 to 147.

able calculation for the time being, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the money so borrowed within the period sanctioned, and shall invest the same in the purchase of Exchequer bills or other Government securities, or, if the Local Government Board shall assent, in securities in which trustees are, by law, for the time being, authorized to invest, or in mortgages, debentures, debenture stock, or other securities, issued by any local authority, as defined by section 34 of the Local Loans Act, 1875, other than the urban sanitary authority, the urban sanitary authority being at liberty from time to time to vary and transpose such investments.

"Art. XVIII. The urban sanitary authority may at any time apply the whole or any part of such sinking fund in or towards the discharge of the money for the repayment of which the fund is established: Provided, that the urban sanitary authority pay into the fund each year, and accumulate until the whole of the money borrowed is discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

"Art. XIX. The urban sanitary authority may, with the sanction of the Local Government Board, reborrow money upon one or more of the securities mentioned in Article XIV. of this Order, for the purpose of discharging any loans contracted under that Article, other than loans contracted under the Local Loans Act, 1875: Provided, that the money borrowed for such purpose shall be repaid in the manner provided by Articles XVI. and XVII. of this Order, and the time for repayment of the money so borrowed shall not, except with the sanction of the Local Government Board, extend beyond the unexpired portion of the period for which the original loan was sanctioned, and shall in no case be extended beyond the period of fifty years from the date of the original loan.

"Art. XX. All money borrowed or reborrowed under this Order shall be appropriated to the purposes for which it is authorized to be so borrowed or reborrowed, and all money received by the urban sanitary authority either as purchase-money of lands sold, or for equality of exchange, or as consideration for a lease, shall be applied to works or objects on which capital may properly be expended, when the Local Government Board have sanctioned the application of the same to those purposes, or shall be applied, according as the

urban sanitary authority may determine, towards the reduction of the debt owing by the urban sanitary authority, or towards the increase of the sinking fund under this Order: Provided, that it shall not be in any way incumbent on any mortgagee to see to the application of any money so borrowed or reborrowed, nor shall the mortgagee be responsible for any misapplication thereof.

"Art. XXI. The powers of borrowing and reborrowing conferred by Articles XIV. and XIX. of this Order, shall be deemed to be distinct from and in addition to the powers of borrowing conferred on the urban sanitary authority by the Public Health Act, 1875."

The next two Articles of this Order contain provisions requiring an annual return to be made to the Local Government Board with respect to the instalments repaid and the sinking fund set apart by the urban sanitary authority, on account of money borrowed by them under this Order. They are similar to those in Article X. of the Rotherham Order, which are set out above, at pages 213 and 214.

Provisional Orders under the General Pier and Harbour Act, 1861.

General Pier and Harbour Act, 1861 (24 & 25 Vict., c. 45).

Harbour authorities may be constituted by Provisional Orders made by the Board of Trade under the General Pier and Harbour Act, 1861. Any such Order may empower the harbour authority to levy and recover rates at their works,[1] and for the purposes of such works, to borrow on mortgage or bond, at a maximum rate of interest to be therein specified, upon security of the rates to an extent limited by the Order, with provisions for payment of interest and repayment of principal. It may also incorporate by reference (amongst other Acts) the Commissioners Clauses Act, 1847, or any part of such Act (section 15).

Devonport Provisional Order of 1881.

The following clauses, which are taken from the Devonport Provisional Order of 1881 (confirmed by 44 & 45 Vict., c. civ.), will serve as a precedent to show the nature of the borrowing powers which are usually given by these Orders.

[1] The word "works" in this Act, includes any pier, harbour, quay, wharf, jetty, or excavation, whether complete or incomplete, on or near the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating with the sea.

Power to borrow.

"17. The corporation may, from time to time, borrow at interest, for the purposes of this Order, such sums as they may require, not exceeding in the whole (except with the consent of the Board of Trade) seven thousand pounds, on the security of the rates leviable under this Order, and on the security of the rates and sums leviable by the corporation under the powers of a local Act passed in the fifty-fourth year of the reign of His Majesty King George the Third, chapter one hundred and seventy-two, intituled, 'An Act to repeal an Act passed in the twenty-first year of His present Majesty, for better maintaining and regulating the poor within the town of Plymouth Dock and parish of Stoke Damerel, in the county of Devon, and for other purposes; and granting further powers in lieu thereof, for lighting, watching, and otherwise improving the said town and parish, and regulating porters and watermen therein' (which Act, as amended by a Provisional Order, confirmed in the year 1867, is in this Order referred to as 'the local Act'); and the corporation may, from time to time, assign, by way of mortgage, to any lender of moneys to them under this Order, all or any of the said rates and sums, and may execute and do any deeds, acts, and things necessary or proper for that purpose: Provided that the rates leviable under this Order shall be primarily liable as security for all money so borrowed; and all sums required for payment of interest or principal of money so borrowed, shall be defrayed out of the rates received under this Order, so far as the same will extend; and the rates and sums received under the local Act shall only be applied to make good any deficiency in any year in the rates received under this Order, and then only so far as may be necessary for making good such deficiency.

Period of repayment of borrowed moneys.

"18. All sums borrowed by the corporation under this Order, shall be repaid within a period not exceeding thirty years after the same are respectively borrowed, either by annual instalments or by means of a sinking fund created and invested, and with the accumulations thereof, from time to time applied by the corporation, in such manner as to secure the discharge of the sums borrowed within such period as aforesaid. All sums paid into any sinking fund shall be, as soon as may be, invested by the corporation in securities, in which trustees are, for the time being, authorized by law to invest trust moneys.

Borrowing under Local Loans Act.

"19. If the corporation decide to borrow, in manner provided by the Local Loans Act, 1875, any moneys which they are

authorized by this Order to borrow, they may create and issue debenture stock, and may secure the discharge of any moneys borrowed by any of the methods provided by that Act, including a sinking fund, and, for the purposes of such discharge, thirty years shall be deemed to be the prescribed period.

Reborrowing.

"20. All money borrowed by the corporation under this Order, and repaid otherwise than by instalments, or by means of a sinking fund, in manner provided by this Order, may be, from time to time, reborrowed by the corporation, but so that the same shall be repaid within the period limited by this Order.

Application of borrowed moneys.

"21. All money borrowed by the corporation under this Order, shall be applied in payment of the costs, charges, and expenses, preliminary to and of, and incidental to, obtaining this Order, and for the purposes of this Order, and not otherwise.

Power to apply moneys arising from sale of lands to discharge of borrowed moneys.

"22. Any money arising from the sale of lands or property of the corporation, and not by any Act of Parliament directed to be applied, or not otherwise, in any manner, appropriated to any specific purpose, may, from time to time, be applied by the corporation to the payment of interest or principal of money borrowed by them under this Order.

Cesser of rates on repayment of borrowed moneys.

"23. When and so soon as money borrowed under this Order has been repaid, all rates leviable under this Order, other than rates in respect of vessels and boats, shall cease to be leviable; but rates in respect of vessels and boats shall continue to be leviable by the corporation, and shall be carried by them to a separate account, and applied, from time to time, in defraying the expenses of maintenance, repair, and improvement of the works authorized by this Order."

Public Works Loans Act, 1882 (45 & 46 Vict., c. 62).

The General Pier and Harbour Act, 1861, was amended during the last session by some important provisions in the Public Works Loans Act, 1882, which enable the Board of Trade, in certain cases, by means of Provisional Orders, to authorize urban sanitary authorities to charge any fund or rate under their control for the purpose of aiding harbour authorities in raising their loans. The provisions in question are contained in the seventh section of the Act, which provides that where a Provisional Order, under the General Pier and Harbour Act, 1861, authorizes any public body to raise a loan for the construction of any works, as defined by that Act, in any place,

Provisional Orders by Board of Trade authorizing the charging of local rates in aid of harbour undertakings (sec. 7).

the same or any other order may authorize any rating[1] authority, as therein-after defined, in that place, under the circumstances and subject to the conditions specified in the Order, to charge, if they think it expedient for the inhabitants at large of such place, any fund or rate under their control, for the purpose of aiding[1] the public body in raising the loan, or any part thereof, from the Public Works Loan Commissioners, and to give such aid by guaranteeing the principal and interest of the loan, or by borrowing the sum required and advancing it to the public body, or partly in one way, and partly in the other, or otherwise in manner provided by the Order.

The Order must provide that the resolution of the rating authority to give the guarantee shall be a special resolution, that is to say, a resolution passed at one meeting of such authority and published in manner directed by the Order, so as to give notice to all persons interested, and confirmed at a second meeting of the rating authority, held not less than fourteen days after the first of such public notices has been given, and not less than three months after the meeting at which the resolution was passed.

The Order must also provide for the time within which and the mode in which any money borrowed by the rating authority is to be repaid, and for the effectual recovery out of the fund or rate charged of any sum payable under the guarantee, and of the principal and interest of any money borrowed by the authority, and for the reimbursement of the fund or rate out of the income of the works, or otherwise by the public body, and must contain such incidental provisions as seem necessary or proper for carrying this section into effect.

Power of Local Government Board to veto Order.

The promoters of an Order proposing to confer power under this section on any rating authority must, a reasonable time before they apply to the Board of Trade to settle the Order, submit to the Local Government Board a statement of their proposal, and if the Local Government Board declare that, in their opinion, having regard to the financial condition of the rating authority, or to the necessity for such rating authority to

[1] In this section, the expression "public body" means any rating authority, also any commissioners, or trustees, or other body or person who manage or undertake the works without any view to the payment of any dividends or profits out of the revenue from such works.

The expression "rating authority" means, in England, the urban sanitary authority.

provide a water supply or drainage for the inhabitants of the said place, or otherwise to fulfil the original duties of such authority, it is inexpedient to burden such rating authority with any such charge, as is mentioned in such proposal, the Board of Trade, in settling the Order, must omit any provision conferring power on the rating authority under this section.

CHAPTER VI.

LOCAL STOCK.

Considerations as to the expediency of issuing Local Stock.

Modes of borrowing under the general law.

At present the majority of local authorities can only raise their loans in one of three ways: (1) By the issue of terminable annuities expiring at or before the end of the period prescribed by statute for the repayment of the loan; (2) By the issue of mortgages or debentures, so framed that the principal money secured thereby is repaid to the lenders by equal annual instalments extending over the whole or a part of the prescribed period; and (3) By the issue of mortgages or bonds repayable at such times as may be agreed upon in each case between the borrowing authority and the lenders.

Their disadvantages.

The Public Works Loan Commissioners and some insurance companies and benefit societies lend money to local authorities on the first two of the above methods; but, as a rule, the general public will not do so, as they object to receiving back their principal year by year by driblets. The consequence is that a very large proportion of the loans of local authorities are raised by the third of the above methods.

This method, which is practically the only one by which local authorities raise their loans from private lenders under the general law, and by which very large amounts are also borrowed by local authorities under local Acts has, in practice, serious disadvantages. A loan raised under it is usually advanced in sums more or less small, by lenders more or less numerous, for periods more or less short, whereas the local authority is usually allowed by statute a long period for the repayment of the whole loan. Thus a loan of £100,000 required by statute to be repaid in sixty years, is raised by the issue to a large number of lenders of a number of small mortgages or bonds, varying in amount from £100 and upwards, repayable at various periods, say from three to five years from the date of the borrowing, or at six months' notice from the lender; and as these mortgages fall due, the money to repay them has, for the most part to be raised by the reborrowing[1] of other sums more or less small, for further periods, more or less short, and so on from time to time, till the period of sixty years is completed, or the sinking fund which is annually set aside for the repayment of the loan has become large enough to repay them finally. This system necessarily involves a constantly recurring expense both to the borrowers and the lenders, in the negotiations for obtaining the money, the cost of the mortgages, including the stamp duty, and the investigation of the title of the borrowing authority. Moreover, when the loan transactions of a local authority are large, a considerable number of these mortgages may fall due at a time most inconvenient for reborrowing, *e.g.*. when money is scarce or credit bad, or when the authority are about to raise a large new loan for other purposes. In the event of any temporary fall in the value of local securities, caused by the depression of trade in the town, or any other cause, the result of the system might be disastrous, for so many mortgagees might call in their money simultaneously that it might be impossible immediately to raise the money to pay them off, except upon terms and conditions most injurious to the ratepayers. These short mortgages constitute an element of some danger to the stability of local finance, especially having regard to the rapid increase, which is taking place in the local loans of the country. It is quite conceivable that

[1] The various difficulties and complications that may arise in connexion with reborrowing, will be appreciated, if reference is made by the reader to pages 24 to 28 of the present work.

circumstances might arise in a town which would excite suspicion on the part of the mortgagees, as to the value of their securities, and bring on such a run upon the resources of the local authority, that it might for the moment be unable to meet its liabilities. And if this were to happen in any well-known town, the value of local securities throughout the country would be more or less seriously depreciated, and the rate of interest payable on them increased, to say nothing of the possibility of a similar strain being suddenly applied to the resources of other towns with a similar result.

These inconveniences and dangers may be met by the creation of debentures and mortgages issued on such conditions that the principal money secured by them cannot be demanded from the local authority till the expiration of the period prescribed by statute for repayment. Securities of this kind can be created under the general law, when lenders can be found to advance money on them; but they are not such popular securities as the stock, which many local authorities have substituted for their renewable mortgages, under powers obtained from Parliament by means of local Acts. Two advantages inseparable from the issue of a continuing stock as compared with renewable mortgages are: (1) That it obviates the necessity of reborrowing, the lender being unable to require the repayment of the principal money lent except on the terms and conditions declared at the time of the issue of the stock, say, at the expiration of the time prescribed by statute for the repayment of the loan; and (2) that it is so readily sub-divided and transferred, that the smallest investments can be made in it at the least expense, so that it is likely to increase the number of would-be purchasers, and reduce the rate of interest payable by the local authority. Another incidental advantage consists in the increased facility which is afforded by the creation of stock for the application, from time to time, of the whole of the sinking fund in hand towards the redemption of the stock, so as to save the expense and remove the difficulties arising from the investment of the sinking fund. But perhaps the greatest advantage, which has been gained by the issue of local stock during the last few years, is that by coming into quotation on the Stock Exchange, and thus drawing the attention of the public to local securities, the stock thus created has contributed in no small degree to a reduction of the rate of interest payable, not merely on the loans raised by this means, but also

Advantages of local stock.

on loans raised by the creation of other descriptions of local securities.[1]

It must, however, be remembered that these advantages have hitherto been procured only at the sacrifice of the chance of reborrowing at a lower rate of interest, and that there is some difficulty in the issue of local stock, except in large amounts. It, therefore, by no means follows that it is at present desirable that every small local authority should raise its loans by the creation of stock, or even that the larger local authorities will always be wise in doing so. So far, however, as can be judged from the present tendency of local authorities in this direction, it seems probable that the amount of local stock in the market will annually increase for some time to come; and a very

Issue of local stock not always desirable.

[1] The following quotations from a recent Stock Exchange list will give some idea of the price, which local stock commanded at the commencement of the present year :—

CORPORATION STOCKS.

Dividend Due.	Authorized Issue.	Per Cent.	Name.	
	£			
5 Jan., Apr., July, Oct.	16,984,326	3½	Metropolitan Board of Works Stock, 6th Oct., 1929	106⅜
1 Feb., May, Aug., Nov.	2,450,000	3	Ditto 3 per cent. Stock	97⅞
1 Feb., May, Aug., Nov.	2,232,200	3½	Corporation of London Bonds, 1887-1891	100
1 Jan. and 1 July	2,000,000	3½	Birmingham Corporation Stock, 1946	99¼
1 Jan. and 1 July	330,290	4	Blackburn 4 per cent. Consolidated Debenture Stock	106, 107
1 Jan. and 1 July	4,314,500	4	Leeds Corporation Consolidated 4 per cent. Debenture Stock	108⅞
1 Jan., Apr., July, Oct.	2,000,000	3½	Liverpool Corporation 3½ per cent. Stock	100⅜
24 June and 24 Dec.	3,775,375	4	Manchester Corporation Consolidated Stock	112½
1 May and 1 Nov.	1,000,000	3	Nottingham Corporation Stock	85
1 Apr. and 1 Oct.	500,000	3½	Reading Corporation Stock paid up scrip	95½
1 Jan. and 1 July	400,000	4½	Stockton Corporation 4½ per cent. Mortgage, 1908	106
1 Jan. and 1 July	600,000	3½	Swansea 3½ per cent. Stock scrip all paid.	95⅝

considerable impetus to its creation would be given, if the more important corporations were to obtain powers similar to those already granted by Parliament to the Metropolitan Board of Works [1] and the corporation of Birmingham, for the purpose of enabling them to advance money to the smaller local authorities. In the meanwhile, so much local stock has already been issued, and so many local authorities, who have not yet issued any, have taken the preliminary steps to obtain the power to do so, that it has become necessary in the present work to give such information as is available concerning it.

Metropolitan Consolidated Stock.

Particulars as to Metropolitan Stock.

By far the best known local stock is the Metropolitan Consolidated Stock, which has been issued by the Metropolitan Board of Works, under the Metropolitan Board of Works (Loans) Act, 1869, and subsequent Acts. The statutory provisions relating to the issue of this stock will be found in Appendix (2), and pages 101 to 109. It is charged indifferently on the whole of the lands, rents, and property belonging to the Metropolitan Board of Works, and on all moneys which can be raised by that board by rates. It has been issued through the medium of the Bank of England, who have undertaken its management, and who keep the books for the transfer of the stock, and pay the dividends thereon, in much the same manner that they manage the transfer of, and the payment of, dividends on consols. There have been no less than ten issues of this stock, in amounts varying from something under one million to upwards of two and a half millions. Up to the year 1880, the stock issued all carried three and a half per cent. interest, and each successive issue, with one exception, commanded a higher price than its predecessors. The Board of Works were accordingly encouraged, in 1881, to bring out a three [2] per cent. stock, which was taken up on more advan-

Securities on which charged.

Issued through the Bank of England.

Number of issues.

Rate of interest payable on it.

[1] These powers have been given by the Metropolitan Board of Works Loans Act, 1875, and subsequent Acts, as to which, see pages 104 to 106, and by the Birmingham Provisional Order, confirmed by the 45 & 46 Vict., c. lxi., as to which, see pages 221 and 222.

[2] With respect to this stock, the Board, in their Annual Report for the year 1881, say—

"There was another important question to be considered, and that was the rate of interest. In 1869, when the first stock was created, the rate of

tageous terms to the metropolitan ratepayers, considering the rate of interest, than the three and a half per cent. stocks had ever been. The following tabular statement,[1] which is taken from the Annual Report of the Metropolitan Board of Works for the year 1881, gives, with respect to each of these issues, the date when the stock was brought out, the rate of interest payable on it, the average price realised by the stock at the time of its issue, the amount of stock issued, and the sums actually raised in each year.

Particulars as to each issue.

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interest was, with the approval of the Lords Commissioners of Her Majesty's Treasury, fixed at three and a half per cent., and experience showed that this was then the proper rate, having regard to all the circumstances of the time. On the occasion of the first issue, in November, 1869, the average amount received by the board for each hundred pounds of stock was £94 14*s.* 10*d.* The amount received has progessively increased at each succeeding issue, with an exception in the year 1874, until in 1880 it reached £102 2*s.* 7*d.* for each £100 of stock. The price of the stock in the money market in February last, when the board was considering the terms on which the new stock should be issued, was 105¼, and it was clear that a higher price than this would prevail, were it not for the obligation to redeem the stock at par in 1929.

"Taking all these circumstances into consideration, the board concluded that the proper rate of interest for the new stock would be three per cent., and, with the approval of Her Majesty's Treasury, that rate was decided on. The decision was justified by the event, as the average price raised by the new stock was £94 19*s.* 4*d.*; somewhat higher than that obtained for the three and a half per cent. stock, when first issued in November, 1869. The three per cent. stock has since been quoted in the market as high as 99⅝."

[1] An examination of this statement will show that the amounts raised by the first three issues of stock were round sums, while the amounts of stock created were broken sums, but that, in subsequent issues, this arrrangement was reversed, the amounts of stock created being round sums, and the amounts raised broken sums. From this it may be inferred that the latter arrangement has been found by experience the more convenient, and local authorities will probably, as a general rule, do well to adopt it; it is, in fact, the arrangement usually adopted. Among other advantages, it has the merit of more readily satisfying the investing public, as it enables the authority, when advertising for tenders, to declare beforehand, the amount of stock to be created. It also tends to the simplification of the loans fund, and of the calculations to be made of the amounts to be annually contributed for the payment of dividends and the redemption of the stock. On the other hand, it has, of course, the disadvantage that it does not enable the local authority to calculate with any accuracy beforehand, what amounts will be raised by the issue of the stock; and if the authority has no other means of raising its loans, it may be placed in some difficulty, if, owing to the price of issue being lower than was anticipated, less money is raised by the stock than is required. But, as it is usual in the Acts, which enable local authorities to issue stock to expressly reserve to the authority the power of raising its loans by other means (see, *e.g.*, section 110 of the Derby Corporations Act, 1882, Appendix (3)) in the great majority of cases, the alternative power of borrowing, by mortgages or debentures, will be available, and any deficiency in the amount raised by the creation of stock, may be made good by borrowing further moneys by either of these means.

Date of Issue.	Rate of Interest.	Average Price of Stock.	Amount of Stock.	Sums Raised.
		£ s. d.	£ s. d.	£ s. d.
24 Nov., 1869	3½	94 14 10	2,638,674 0 4	2,500,000 0 0
23 Aug., 1871	3½	96 6 6	934,304 19 10	900,000 0 0
6 Mar., 1873	3½	95 11 10	1,883,033 14 4	1,800,000 0 0
18 Feb., 1874	3½	94 10 0	2,600,000 0 0	2,457,000 0 0
11 May, 1876	3½	100 2 2	1,350,000 0 0	1,351,483 0 0
2 May, 1877	3½	100 3 2	1,250,000 0 0	1,251,989 0 6
16 April, 1878	3½	100 17 7	2,500,000 0 0	2,521,952 7 0
15 May, 1879	3½	101 9 3	2,150,000 0 0	2,181,451 0 6
30 April, 1880	3½	102 2 7	1,750,000 0 0	1,787,282 16 0
11 Mar., 1881	3	94 19 4	2,450,000 0 0	2,326,688 16 6
		Total -	19,506,012 14 6	19,077,847 1 6

When redeemable.

Metropolitan consolidated stock is required by section 4 of the Metropolitan Board of Works (Loans) Act, 1869, to be redeemable at the option of the board at par, at such times and on such conditions as the Treasury, before the creation thereof may, from time to time, approve; and by section 27 of the same Act, the amounts to be annually carried to the consolidated loans[1] fund for the purpose of its redemption, are to be such as the Treasury may, from time to time, approve, as being, in their opinion, necessary in order to redeem the stock in sixty years from the date of its creation.[2] All the stock on which interest at 3½ per cent. is payable, has been made redeemable in the year 1929, *i.e.*, sixty years after the first issue of the stock in 1869. The 3 per cent. stock is redeemable in 1941, *i.e.*, sixty years after its first creation in 1881. On this point the board say, in their Annual Report, to which reference has already been made: "There would have been an obvious inconvenience in having in the money market many different stocks, each of comparatively small amount, redeemable at different dates. As one of the consequences, however, there has been, since 1869, a continuing diminution of the period for which the money required for metropolitan improvements has been raised, and over which the cost of such improvements

[1] As to this fund, see below, page 236.

[2] By section 9 of the Metropolitan Board of Works (Loans) Act, 1871, so much of the stock as is created for any of the purposes of section 34 of the Metropolitan Board of Works (Loans) Act, 1869 (the provisions of which will be found in Appendix (2)), is required to be purchased or redeemed and cancelled within sixty years from the time of the first creation by the Board of Works of any consolidated stock.

will be spread; until the year 1880, the money raised by the issue of stock was raised for forty-nine years only, instead of for the term of sixty years authorized by Act of Parliament. The board was of opinion, therefore, that, in justice to the present ratepayers, a new stock should this year be issued, redeemable in sixty years—that is to say, in 1941."

Consolidated Loans Fund.

The consolidated loans fund, to which reference has been made on the preceding page, is a fund which is required by section 26 of the Metropolitan Board of Works (Loans) Act, 1869, to be established for the purpose of paying the dividends on and redeeming Metropolitan Consolidated Stock. Amongst other moneys, the Board of Works are required to carry to this fund (1) all moneys, whether in the nature of capital or otherwise, arising from the sale, lease, or other disposition of lands, rents, and property belonging to the board; (2) such greater or lesser annual sum as the Treasury may, from time to time, approve, as being, in their opinion, necessary in order to pay the dividends on and to redeem all the consolidated stock in sixty years from the date of the creation thereof; and (3) all sums received by them in respect of the interest on or principal of loans advanced by them to other local authorities.[1] They are also required to pay into the fund any sinking fund formed for the payment of any security granted prior to the passing of the Act of 1869, if such security is paid off out of the loans fund, or by means of money raised by the issue of consolidated stock, or is converted into consolidated stock. See section 35 of the Metropolitan Board of Works (Loans) Act, 1869.

Moneys to be paid into it.

Application of the fund.

By section 28 of the last-mentioned Act, the corporation were required, from time to time, to apply this fund according to such regulations as might be approved by the Treasury, first, in the payment of dividends on consolidated stock, and then in one or more of the following modes, namely, in purchasing or redeeming[2] the stock, and in payment of the principal of the securities granted before the passing of that Act. A wider power of application has since been given, of which some account is given below. In the meanwhile, the fund

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[1] With respect to the power of the Board of Works to create stock for this purpose, see below, page 238.

[2] All stock purchased and redeemed, and all securities paid in pursuance of this section, are required to be cancelled. See page 274.

was required (subject to the above regulations) to be invested and accumulated in Government securities.

Persons authorized to invest in Metropolitan Stock.

As has already been mentioned,[1] trustees, executors, and other persons authorized to invest money in public stocks, funds, and other Government securities, are expressly authorized to invest the same in Metropolitan Consolidated Stock, unless forbidden to do so under the will or other instrument under which they act. Perhaps it is in consequence of this special privilege that the Metropolitan Board of Works are placed under more stringent supervision as regards the raising of their loans than any other local authority. Their powers of borrowing are regulated by annual Loans Acts, to the promotion of which the consent of the Treasury is required; and, as has been already seen,[2] the terms on which their stock is to be issued, the times at which it is to be redeemed, the amounts to be annually carried to a loans fund for the purpose of its redemption, and the regulations in accordance with which the fund is to be applied, are required to be approved by the Treasury. The Treasury have also to approve of the bank where the books of transfer of the stock are to be kept (see section 10 of the Metropolitan Board of Works (Loans) Act, 1869, Appendix (2)), the arrangements to be made by the Board of Works with such bank (see section 17 of the same Act), the consolidation of the board's accounts (section 31), the arrangements for the conversion of existing securities into the stock (section 32), the days on which the dividends on the stock are to be paid (section 39), and the form of the annual returns with respect to the stock and the loans fund, which is required to be made by the board to Parliament (section 49). In each of these respects, with the exception of the last,[3] other local authorities, who have been empowered to issue local stock, have been authorized to act without the control of any central authority.

Supervision of the Treasury.

Compensation for stamp duty.

By section 18 of the Metropolitan Board of Works (Loans) Act, 1869, a stamp duty of two shillings and sixpence was required to be paid for every hundred pounds or fractional part of one hundred pounds of Metropolitan Stock on every occasion of transfer. In consequence of the inconvenience of

[1] See pages 29 and 104.

[2] See pages 235 and 236.

[3] Other local authorities issuing stock make similar returns to the Local Government Board and not to Parliament. See *e.g.*, section 108 of the Derby Corporation Act, 1882, Appendix (4).

this arrangement (the transfers being made by means of books, after the manner of transfers of consols) the Metropolitan Board of Works (Loans) Act of the following year provided for the payment by the board of a composition for this stamp duty, at the rate of seven shillings and sixpence for every hundred pounds, or part of one hundred pounds of stock. The amount of this composition has been since increased by section 54 of the Inland Revenue Act, 1880, to one shilling and threepence for every ten pounds, or fraction of ten pounds of stock, which amounts to twelve shillings and sixpence for every hundred pounds of stock. The convenience of compounding for the stamp duty is, however, so obvious, that if a higher rate of composition were demanded, it would probably be desirable to pay it in preference to paying a duty on every transfer. The amount of the composition may be borrowed by the Board of Works, and raised by the issue of stock.[1]

Creation of stock for purpose of lending to other local authorities.

Metropolitan Consolidated Stock may be created not merely for the purposes of the public improvements, which the Metropolitan Board of Works are authorized to carry out, but also for the purpose of lending money to the other local authorities of the metropolis.[2] The amounts of stock which have been created for this purpose are considerable;[3] and the power of the board to lend to these authorities has proved a great boon to the metropolitan ratepayers, the borrowing authorities being enabled by this means to raise their loans on more favourable terms than they would otherwise have been likely to obtain. Moneys thus lent by the Board of Works are required to be repaid to them within such time after the borrowing as the board and the borrowers, with the approval of the Treasury, agree, not exceeding, in the case of loans for purposes of

[1] See section 8 of the Metropolitan Board of Works (Loans) Act, 1875, which is set out at page 106, and which also enables the board to borrow for payment of the charges payable to the Bank of England, costs of advertising, brokers' commission, and other expenses incidental to the raising of money by Metropolitan Consolidated Stock.

[2] These authorities are enumerated in sections 5 and 6 of the Metropolitan Board of Works (Loans) Act, 1875, which is set out in page 105.

[3] On the 31st of December, 1881, the total outstanding balances of the loans, which had been advanced by the Metropolitan Board of Works to other metropolitan authorities, amounted to £3,990,686, of which £836,251 were owing by the managers of the Metropolitan Asylum District, and £959,697 by the School Board for London. The total amount of the stock created by the Metropolitan Board of Works, and outstanding at the same date, was £18,820,342.

improvements effected by the widening of streets or bridges, or for the purchase of land in fee simple, and in the case of loans to the London School Board, sixty years; and in other cases, thirty years. Where the loan has been advanced for a short period, say for thirty years, and has been raised by the issue of stock, which, as we have already seen, is only redeemable at par at the end of from forty-nine to sixty years from the date of issue,[1] it is clear that the board cannot calculate on being able to buy in the stock at par at the expiration of the thirty years prescribed for the repayment of the loan to them. And, as has been already mentioned,[2] their loans fund was, until recently, required to be invested, pending its application in the redemption of stock, in Government securities. These considerations made it necessary for the board formerly to charge a somewhat higher rate of interest on loans advanced by them for a short than for a long term, a practice, it will be observed, which is diametrically opposite to that followed by other lenders, *e.g.*, insurance companies and the Public Works Loans Commissioners.[3] A recent enactment[4] has, however, to some extent, obviated these inconveniences by enabling the Board of Works, in lieu of raising stock for the purpose of making these loans, to use their loans fund[5] for this purpose, when the loans are repayable to them within thirty years from the date of borrowing. This amendment of the law is thus referred to in the Annual Report of the Board, to which we have already had occasion to draw attention. "An important alteration has been made in the board's powers of investing money applicable to the redemption of debt. The application of the money was limited by the Loans Act of 1869 (under which the board's present financial system was instituted) to the purchase and cancellation of Metropolitan Consolidated Stock, and the redemption of securities granted before the date of the Act; meanwhile, the board could invest the fund in Government securities. Experience has shown that there would be a loss to the ratepayers if the field for investment

Application of loans fund to the same purpose.

[1] See page 235.

[2] See page 237.

[3] As regards the practice of the Public Works Loan Commissioners in this respect, see page 84.

[4] See section 20 of the Metropolitan Board of Works (Money) Act, 1881, the effect of which is given in page 109.

[5] As to this fund, see page 236.

were thus limited, and, as the result of a correspondence between the Treasury and the board, an arrangement has this year been made that the fund shall be invested in mortgages for thirty years and under, when given by local bodies, to which the board has Parliamentary authority to lend money. A clause to give effect to this arrangement was inserted in the Money Act of 1881. The result will be beneficial in every way, for not only will the board make a saving in the better interest obtainable for its sinking fund, but the vestries and other borrowing bodies will save still more by being able to borrow for short periods at as low a rate (at present 3½ per cent.) of interest as they have been accustomed to pay for larger loans. Hitherto the board has had to charge a higher rate of interest for loans for a short than for a long term, so as to cover the loss of buying in the stock within a short period."

The power which has thus been given to the Board of Works to invest their loans fund in these securities is, it will be observed, in many respects, similar to the power which has been given to many local authorities borrowing under local Acts, to invest their sinking funds in securities issued by themselves or by other local authorities.[1]

Conversion of existing securities into stock.

As the object of the Board of Works, in the creation of their stock, was to consolidate their loans, it was, of course, necessary to enable them to enter into arrangements with the holders of existing securities, for the conversion of such securities into stock. Power to make these arrangements, according to such regulations, and on such terms as might be approved by the Treasury, was therefore given by section 32 of the Metropolitan Board of Works (Loans) Act, 1869; and by section 33 of the same Act, incapacitated persons, who come within the classes of persons enabled to sell land under the Lands Clauses Act, were authorized to consent to such arrangements, or to the payment off of their securities before the time limited for their payment, and were empowered to accept money for such consents, in the same manner as if they were the owners, in their own right, of such securities.

Appointment of a receiver.

Some account has been given in the earlier part of this work of the difficulties which have been raised, in past times, by the Court of Chancery, to the appointment of a receiver of local rates, in view of the consideration that the local authority may

[1] See pages 67 and 68.

decline to levy an adequate rate.[1] These difficulties cannot arise in the very improbable event of default being at any time made by the Board of Works in the payment of the dividends on their stock, for, by section 40[2] of the Metropolitan Board of Works (Loans) Act, 1869, not only is the Court of Chancery expressly empowered, on application being made to it in a summary manner, to appoint a receiver on such terms and conditions, and with such powers, as the Court think fit, but the receiver will have the same power of collecting and receiving and applying all moneys liable to be carried under that Act to the Consolidated Loans Fund, and of assessing and raising the Metropolitan Consolidated Rate, for the purpose of obtaining such moneys, as the board, or any officer thereof, may have. The receiver, when appointed, is required by the same section to apply all moneys received by him, after payment of expenses and costs, under the direction of the court, for the purposes of, and in conformity with, the Act; and the Act further provides that the court may, at any time, discharge him, and that it shall have full jurisdiction over him, and the applicant, and all persons and bodies interested, in the same manner and to the same extent, as if a suit had been duly instituted for the administration of the affairs of the board, and a receiver had been appointed in such suit.

Exemption of purchasers of stock from enquiries.

Another advantage, which is given by statute to persons purchasing or advancing money on the security of Metropolitan Consolidated Stock, is that they will not be bound to see or enquire[3] whether the stock is created for the purposes for which it is authorized to be raised, or whether it is within the borrowing powers[4] of the Board of Works, or otherwise, in accordance with the provisions of the Metropolitan Board of Works (Loans) Act, 1869, or any regulations made thereunder; and that they will not be prejudiced, if the stock has been improperly created in either of these respects. Nor will they be bound to enquire whether the board, or any meeting thereof, was properly constituted or convened, or whether the proceedings at any meeting of the board were legal or regular.

[1] See pages 33 and 34.

[2] See Appendix (2).

[3] See section 42 of the Metropolitan Board of Works (Loans) Act, 1869, Appendix (2).

[4] The great importance of this provision will be appreciated on reference to the cases quoted at page 20.

Sale of lands on which stock is charged.

As the Metropolitan Stock is charged, not only on the rates which may be raised by the Board of Works, but also on the whole of the lands and property belonging to the board, it is obvious that special statutory provisions are necessary, in order to enable the board to sell their surplus lands and property freed from the charge thus created. It is accordingly provided, by section 45 of the Metropolitan Board of Works (Loans) Act, 1869,[1] that nothing in that Act shall affect any power or duty of the board to sell, lease, or otherwise dispose of land or property belonging to them; and, by section 44 of the same Act, that where the board sell or lease, or otherwise dispose of, to any person or body corporate, any land or property charged under the provisions of that Act, as security for any consolidated stock, such lands and property shall, in the hands of such person or body corporate, be absolutely freed of every such charge. The holders of the stock will not be materially prejudiced by any sales of land or property under these provisions, for, as has already been seen,[2] the proceeds of the sale are required to be carried to the loans fund, and will, therefore, be applicable to the redemption of the stock. The purchasers are, however, exempted from the obligation of seeing to the application of the purchase-money in this manner, and from any responsibility as to its non-application.[3]

For further information as to Metropolitan Stock, the reader is referred to Appendix (2), and pages 101 to 109 of the present work.

Corporation and County Stock.

Powers of local authorities to issue stock prior to 1880.

For many years past, several of the local authorities of this country have, under their local Acts, possessed the power of issuing debenture stock, and, as has been pointed out in the first chapter[4] of this work, where this power has been obtained, the stock may, if it is considered desirable, be issued under the provisions of the Local Loans Act, 1875. Under the powers given by these Acts, stock had been issued, prior to the year 1880, by the corporations of several large towns; but the stocks

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[1] See Appendix (2).

[2] See page 236.

[3] See section 44 of the Metropolitan Board of Works (Loans) Act, 1869, Appendix (2).

[4] See page 6.

thus created had, so far as the present writer is aware, been brought out locally, and the provisions under which they were issued were, in many respects, inferior to those contained in the Metropolitan Board of Works (Loans) Act. The constantly increasing success which had attended the bringing out of the Metropolitan Consolidated Stock, through the medium of the Bank of England, and to which reference has already been made,[1] induced the corporations of Birmingham, Liverpool, and Nottingham, in the year 1880, to take steps for obtaining similar powers to those contained in the Loans Act of the Metropolitan Board of Works, for the purpose of enabling them to convert the whole of their existing loans into stock, charged indifferently on all the rates leviable by, and all the funds and revenues belonging to them, and for the further purpose of enabling them to raise their future loans by the issue of the same stock. The necessary powers for these purposes were obtained by the corporation of Birmingham by means of a Provisional Order,[2] and by the corporations of Liverpool and Nottingham[3] by means of local Acts. In the session of 1881, local Acts were obtained for the same purposes by the corporations of Birkenhead, Hull, Reading, Stalybridge, and Swansea, and also by the Lancashire county justices.[4] In the following session, similar powers were obtained by the corporations of Blackburn, Bolton, Derby, Halifax, Huddersfield, Macclesfield, Newcastle-upon-Tyne, Rotherham, Tynemouth, and Wolverhampton, and also by the Essex county justices.[5]

Powers granted by Acts passed in 1880, and subsequently.

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[1] See pages 233 to 235.

[2] This Order was confirmed by the 43 & 44 Vict., c. clxxviii., and has since been amended by Orders confirmed by the 44 & 45 Vict., c. lxviii., and the 45 & 46 Vict., c. lxi.

[3] By the Liverpool Corporation Loans Act, 1880 (43 & 44 Vict., c. ccvii.), and the Nottingham Corporation Loans Act, 1880 (43 & 44 Vict., c. ccviii.).

[4] By the Birkenhead Corporations Act, 1881 (44 & 45 Vict., c. cliii.), the Hull Corporation Loans Act, 1881 (44 & 45 Vict., c. xciv.), the Reading Corporation Act, 1881 (44 & 45 Vict., c. clxxi.), the Stalybridge Extension and Improvement Act, 1881 (44 & 45 Vict., c. cxci.), the Swansea Corporations Loans Act, 1881 (44 & 45 Vict., c. cvii), and the Lancashire County Loans Act, 1881 (44 & 45 Vict. c. xcv.).

[5] By the Blackburn Improvement Act, 1882 (45 & 46 Vict., c. ccxliii.), the Bolton Improvement Act, 1882 (45 & 46 Vict., c. ccxliv.), the Derby Corporation Act, 1882 (45 & 46 Vict., c. ccxlv.), the Halifax Corporation Act, 1882 (45 & 46 Vict., c. ccxxxiv.), the Huddersfield Corporation Act, 1882 (45 & 46 Vict., c. ccxxxvi.), the Macclesfield Corporation Act, 1882 (45 & 46

Points of resemblance between these Acts and Metropolitan Loans Acts.

These Acts having been framed on the model of the Metropolitan Board of Works (Loans) Act, have naturally many points of resemblance to those statutes. Thus, they enable the local authority in each case to substitute one description of permanent and popular security, charged indifferently upon all the funds, rates, and revenues of the authority, for the various mortgages, debentures, and other securities, which would otherwise have been charged upon separate funds, rates, and revenues. Power has also been given in each of them to the local authority to employ the Bank of England, or any other bank, to manage the stock, and all matters connected with its transfer and the payment of dividends. And the provisions enabling incapacitated persons to agree to the conversion of existing securities into stock, or to the payment off of such securities by anticipation; regulating the appointment of a receiver, in the event of the local authority failing to pay the dividends on the stock; exempting purchasers of the stock from enquiries as to the title of the authority to issue it; and providing for the sale of surplus lands, freed from any charge thereon created by the stock, are very similar both in form and substance to those which are contained in the Metropolitan Board of Works (Loans) Acts, dealing with the same subjects.

Points of difference.

There are, however, several respects in which these later Acts differ from the Metropolitan Acts. Thus, in lieu of the general power, enabling trustees to invest in the stock, which, as we have seen,[1] has been given in the Metropolitan Acts, they confer a far more limited power, under which the only trustees, who obtain a statutory power to invest in corporation or county stock, are those who are already authorized to invest in the mortgages, debentures, or debenture stock of any railway or other company.[2] And this limited power is still further narrowed, by a provision to the effect that where two or more persons are successively interested in trust money, no investment thereof shall be made in corporation or county stock at a

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Vict., c. ccxlix.), the Newcastle-upon-Tyne Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxxxv.), the Rotherham Corporation Act, 1882 (45 & 46 Vict., c. ccxxxvii.), the Tynemouth Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxxxix.), the Wolverhampton Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxl.), and the Essex County Loans Act, 1882 (45 & 46 Vict., c. ccxxxiii.).

[1] See pages 29 and 237.

[2] See page 30, and section 106 of the Derby Corporation Act, 1882, in Appendix (4).

price exceeding the redemption value of the stock. On the other hand, as has been already pointed out, the local authorities, who have been empowered to issue corporation and county stock, have not been placed under the control of a central authority to the same extent that the Metropolitan Board of Works have[1] been, their main obligations in this respect being that they are required to make an annual return to the Local Government Board with respect to their loans funds,[2] and that, in certain cases, if they issue irredeemable stock, they may, if the stock rises greatly in value, be called upon by that board, from time to time, to make additional payments into the loans fund.[3] Nor are these the only points of dissimilarity. Under the Metropolitan Board of Works (Loans) Act, 1869, the stock is required to be redeemable at the option of the board at par at such times and on such conditions as the Treasury before the creation thereof determine. It is, however, contemplated by the majority of the Acts, which have authorized the creation of corporation and county stock, that such stock may, if the local authority issuing it so determine, be irredeemable,[4] that is to say, redeemable only by agreement with the holder. And the provisions relating to the formation of the loans fund, the payments to be made into it, the manner in which they are to be raised, the deductions that may be made from them, and the various accounts which the local authority are to keep in connexion with the fund, are far more elaborate than the corresponding provisions in the Metropolitan Board of Works (Loans) Acts. There are other minor points of divergence, which will be found on a comparison of the Metropolitan[5] Acts, with the Derby Corporation Act, 1882, in Appendix (4).

Provisions as to loans fund. Contributions from rates funds and revenues.

The provisions in the majority of these Acts with respect to the loans fund, are necessarily more complex than those in the Metropolitan Acts for several reasons. In the first place, for the purpose of paying the dividends on Metropolitan Consolidated Stock, and redeeming such stock, the Metropolitan Board of Works, who possess no gasworks, waterworks, or markets,

[1] See page 237.

[2] See sections 78, 108, and 116 in the Derby Corporation Act, 1882, Appendix (4).

[3] As to this requirement, see below, page 255.

[4] With respect to redeemable and irredeemable stock. see below, pages 249 to 256.

[5] See pages 101 to 109, and Appendix (2).

have the power to levy one consolidated rate over the whole of the metropolis. But the local authorities, who have issued corporation and county stock, have, as a rule, no such power. Some of these expenses are usually paid out of general district rates, some out of borough rates, some out of private improvement expenses recovered from individuals, others out of gas or water revenues, market tolls, or rents of corporate property. Separate loans have often been raised on the security of one or more of these different rates and revenues; and the incidence of charge on the ratepayers of the district might be materially affected, if the principal and interest of the stock, into which these constituent loans are converted, were paid out of one rate levied uniformly over the whole district. In order, therefore, to prevent this result, it has been found necessary, in the majority of these Acts, to make elaborate provisions, requiring each fund, rate, and revenue, on which the constituent loans would have been charged, if the stock had not been created, to pay its proper contribution each year towards the payment of the dividends on the stock as they become due, and the amounts which it is necessary to set aside to provide for the ultimate repayment of the principal. For an example of these provisions, reference may be made to sections 73 to 75, and 80 of the Derby Corporation Act, 1882, which are set out in Appendix (4).

Annual amounts payable for redemption of stock.

Moreover, under the Metropolitan Acts, as the amount to be set aside annually for the redemption of the stock is to be fixed by the Treasury, there is not the same reason for precisely defining the manner in which it is to be arrived at, as there is when the amounts are to be determined by the local authorities themselves in the first instance. The draftsman has, therefore, been compelled in the latter class of cases to set out with some minuteness the rules which are to guide the local authorities in determining these amounts; and on reference to sections 74 (3), (4), (5), 76, 78 (5), 81 and 83 (3), of the Derby Corporation Act, 1882, it will be seen that great ingenuity has been exercised, in this respect, with the view of ensuring, first, that the payments shall be adequate; secondly, that certain moneys on account of capital coming into the hands of the authority, and properly applicable to the redemption of the stock, shall invariably be paid into the loans fund for that purpose; and thirdly, that the amounts paid into the fund need not in any year be larger than appears in that year to be necessary, judging from the light

of events which have occurred since the first formation of the loans fund. This latter object is attained by enactments, providing that when, owing to the payment into it of any capital moneys, the fund becomes larger than was anticipated in the calculations which were made for determining the amounts to be paid into it annually out of revenue, a reduction shall, for the future, be made in such amounts, equivalent to the interest from time to time accruing on such capital moneys.

Investment of loans fund.

A wider discretion is, moreover, given to the local authorities in these Acts, with respect to the investment of their loans funds, than that which has been conceded to the Metropolitan Board of Works. The securities, in which these funds may be invested (see section 68 (2), 74 (4), and 81 (2) of the Derby Corporation Act, 1882), include "any security in which trustees are, for the time being, by or under any Act of Parliament passed, or to be passed, authorized to invest trust money,[1] and any mortgage, bond, debenture, debenture stock, corporation stock, annuity, rent-charge, rent, or other security, authorized by or under any Act of Parliament passed, or to be passed, of any municipal corporation, or of any other local authority within section 34[2] of the Local Loans Act, 1875." There should, therefore, be no great difficulty in investing the fund to advantage, or at any rate in such a manner that it may produce three and a half per cent., which is the rate of accumulation at which it has usually to be calculated, when a rate of accumulation has been prescribed.

How annual payments determined.

There are two principles which have been adopted in these Acts for determining the amounts of the annual payments to be made into the fund as a provision for the ultimate redemption of the stock. One of these is, to make no unnecessary change in the amounts required to be annually set aside for the repayment of the constituent loans, and to pay into the loans fund for the redemption of the stock, as nearly as possible the same amounts as would have been required to be set aside annually, as sinking funds for the repayment of these loans, if they had been raised in the ordinary manner, by mortgages or debentures. This course has been adopted in the following, amongst other Acts; viz., the Blackburn Improvement Act, 1882 (45 & 46 Vict., c. ccxliii., s. 301 (3)); the Bolton Improvement Act,

[1] As to what investments this will authorize at the present time, see note (1) on page 67.

[2] This section will be found in Appendix (3).

1882 (45 & 46 Vict., c. ccxliv., s. 100 (3)); the Derby Corporation Act, 1882 (45 & 46 Vict., c. ccxlv., s. 74 (3)), and the Halifax Corporation Act, 1882 (45 & 46 Vict., c. ccxxxiv., s. 41 (3)). In other Acts, very considerable alterations have been made in the obligations of the local authority with respect to the provision which it is required to make for the discharge of its loans, in consequence of their being converted into stock. For examples of what has been done in these cases, reference may be made to the Macclesfield Corporation Act, 1882 (45 & 46 Vict., c. ccxlix., s. 100 (3)); the Rotherham Corporation Act, 1882 (45 & 46 Vict., c. ccxxxvii., s. 10 (3)), and the Wolverhampton Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxl., s. 9 (3)).[1] The object aimed at in each of these Acts has apparently been to simplify the calculations by substituting one or more periods, consisting of a prescribed number of years from the passing of the Act, for the several periods prescribed by the various Acts, Orders, and sanctions, which have conferred the power to raise the constituent loans, and by requiring the annual payments into the loans fund, for the redemption of the stock, to be of such amounts, as, accumulating at three and a half per cent., will be sufficient to redeem the stock at par, at the expiration of the periods thus substituted. For example, supposing constituent loans of equal amounts are required to be respectively paid within twenty, thirty, forty, and fifty years from the passing of the Act, the Act may require the annual payments into the fund, for the purpose of redeeming the stock into which these loans are converted, to be of such amounts as will be sufficient to redeem the stock within thirty-five years from the passing of the Act, the period thus selected being a mean period between the twenty and the fifty years. There will be a considerable convenience to the local authority in adopting this principle where the loans to be converted are numerous, and of varying amounts, so as to require a large number of independent calculations in determining how much ought to be set aside annually for the discharge of each under the existing law; and, assuming that the mean period is determined with due regard to the existing methods of repayment, and to the amounts of the several constituent loans repayable by each of such methods, no injustice need be done to the ratepayers of the future by reason

[1] The last mentioned enactment will be found in the note to section 74 of the Derby Corporation Act, 1882, Appendix (4).

of such an arrangement. As, however, it is impossible to know, when the power to issue the stock is given, what future loans will be required to be raised by the local authority, and for what purposes, and what periods will be allowed for their repayment, it is necessary to leave the annual amounts to be paid into the loans fund, for the redemption of future loans, to be determined by the periods that may hereafter be prescribed by the Acts, Orders, or sanctions, which may authorize such loans to be raised.[1]

Redeemable and Irredeemable Stock.

Option of issuing redeemable or irredeemable stock.

As has already been mentioned,[2] Metropolitan Consolidated Stock is required to be redeemable at the option of the Metropolitan Board of Works at par at such times and on such conditions as the Treasury, before the creation thereof, may, from time to time, approve. Corporation and county stock may, however, according to the majority of the Acts which have authorized their creation, either be redeemable at par by the local authorities issuing them at such time and in such manner as the authorities may declare by the resolutions in pursuance of which they are created, or be irredeemable, that is to say, redeemable only by agreement between the local authority and the holder of the stock.[3] It is obvious that the option thus given by the Legislature to local authorities of determining whether their stock shall be redeemable or irredeemable is a very important one, and that every local authority which is called upon to exercise it should, before doing so, carefully consider the advantages and disadvantages attendant on the issue of each of these descriptions of security; for the amounts of local stock, which are being issued from time to time, are so large, that any mistakes in this respect may bring about very momentous results, so far as the ratepayers of the future are concerned.

Redeemable stock.

There are practically two methods by which a local authority may issue redeemable stock. The stock may either be made

[1] See, *e.g.*, section 9 (3) (c) of the Wolverhampton Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxl.), which will be found in the note to section 74 of the Derby Corporation Act, 1882, in Appendix (4).

[2] See page 235.

[3] See, *e.g.*, section 69 of the Derby Corporation Act, 1882, in Appendix (4).

redeemable at par,[1] at or after the expiration of a prescribed period, at the option of the local authority; or it may be issued upon conditions which will render it compulsory for the local authority to redeem it at par at a certain date. Of these methods, the former will be the more advantageous to the authority, assuming that it can be adopted without detriment to the prospects of a successful issue of the stock; for in the event of the interest on local securities rising before the time when the stock becomes redeemable, the authority will probably be able to purchase the stock under par, and the difference between the price at which it is thus purchased, and the nominal amount of the stock, will be so much clear gain to the ratepayers. On the other hand, if the rate of interest payable on the stock is low, and the stock is likely to be issued at a discount (as, for example, the three per cent. stocks of the Metropolitan Board of Works and the Corporation of Nottingham have been), the fact that the local authority will be compelled hereafter to redeem the stock at par, *i.e.*, at a considerably higher price than that at which it is issued, may, in some cases, have a material effect in raising the price at which the public will take it up in the first instance. Neither of these considerations should be lost sight of when a local authority has determined to issue redeemable stock; and it will be well before coming to a decision as to the conditions on which the stock shall be redeemed, to ascertain, if possible, the extent to which the investing public have been influenced by them, on the occasions of previous issues of this class of stock by other local authorities.

Irredeemable stock.

If a local authority determines to issue irredeemable stock, there are, of course, no conditions as to its redemption, which require to be considered. So long as it exists, the dividends on it must be paid by the local authority; but before it can be cancelled, it must be bought by agreement by the authority issuing it, in the same manner that it may be bought by any

[1] As will be seen above, corporation and county stock, if redeemable, are usually required to be redeemable at par. If it were not for this requirement, it might possibly be advisable in some cases to issue local stock, redeemable at the end of a fixed period at a fixed premium, say at £105 for every £100 of stock. In such a case it would, of course, be necessary that the amounts paid into the loans fund should be such that they would be sufficient to redeem the stock at this price at the expiration of the prescribed period. The objections to the issue of stock, that may at any time be redeemed, compulsorily, at par by the authority issuing it, are too obvious to require comment.

other purchaser. Nor will any holder of it have the right to demand its redemption, or any further payment in respect of it, except the dividends as they fall due, in any contingency, except possibly in that of the local authority lapsing or being superseded.[1]

Dangers of issuing irredeemable stock.

There are great and obvious dangers inseparable from the issue of irredeemable stock. The market price of redeemable stock is not likely to rise far beyond the price of redemption, unless the time fixed for redemption is far distant. But the only limit to the price to which irredeemable stock may rise, is that which is imposed by the rate of interest payable on other local securities for the time being. And when a stock has once been issued it is to the advantage of the authority who have issued it, so far as the particular loans are concerned which have been raised by this means, that it should not rise greatly in value; for if it does, the authority will have to pay more than they would otherwise do, in order to redeem it, which they are usually required by statute to do within a prescribed period, whether or not the stock is, as between themselves and the holders, nominally irredeemable. This disadvantage will, no doubt, to some extent be less felt by the ratepayers, in consequence of the better conditions on which the authority will usually in such a case raise its new loans; but these conditions will not be determined so much by the price of the outstanding stock which has been issued by the same authority, as by the rate of interest payable on the local securities of similar authorities, which will, of course, in no way depend upon the question whether the stock issued by any particular authority has been redeemable or irredeemable. The compensation arising from the issue of future stock upon better terms should not, therefore, be considered as a justification for issuing stock on terms, the effect of which may probably be to cause its market price to rise to such an extent that the authority issuing it may be compelled hereafter to pay far more for its redemption than they obtained by its issue.

To judge of the effect upon the ratepayers of the future, which may be produced by the issue of irredeemable stock at the present time, it will be well to consider what would have been the effect now upon the ratepayers of the present time if any local authorities, sixty years since, had raised, by the issue of

[1] As to the effect which such a contingency might possibly have on a local security, see the note on page 151, and the cases there cited.

stock, redeemable only by agreement with the holder, loans which they were required by statute to redeem this year, by the operation of a sinking fund or otherwise. Sixty years since the ordinary rate of interest payable on local securities was five per cent., and as three and a half per cent. stocks are now about at par, a five per cent. irredeemable stock would probably now command in the money market £143 for every £100 of stock. Assuming that the rate of interest on local securities will fall as much during the next sixty years as it has done during the last sixty, a local authority now raising its loans by the issue of irredeemable stock, instead of by the issue of stock redeemable compulsorily at par at the end of sixty years from the present time, may be imposing an unnecessary burden upon the ratepayers sixty years hence to the extent of forty-three per cent. on the amount of the stock now issued. For example, if the Corporation of Birmingham, who have raised £3,000,000 by the issue of stock, redeemable compulsorily, at the option of the Corporation, at par at the expiration of sixty years from its issue, had raised the same amount by the issue of irredeemable stock, the Birmingham ratepayers, sixty years hence, might in no very improbable contingency have had to pay £1,290,000 more than they will have to pay now. It is clear, therefore, that some very strong advantages should be shown to arise from the issue of irredeemable as compared with redeemable stock, to justify any local authority in raising its loans by a method which may be so injurious to posterity.

Inconveniences of issuing redeemable stock.

That there may be some possible advantages arising from the issue of irredeemable stock, or rather that inconveniences may, in certain contingencies, arise from the issue of redeemable stock, may perhaps be inferred from the fact that power has been granted to local authorities to issue each of these descriptions of local stock. But these inconveniences are trifling when compared with the dangers above indicated. The most important of them will be realized on reference to the passage from the last Annual Report of the Metropolitan Board of Works, which is quoted above, at pages 235 and 236. It will there be found that the Board of Works have been in the habit of bringing out a new issue of stock in nearly every year since 1869, and as they were required to provide for its redemption in every case within sixty years from the date of its creation, and it would have been inconvenient to have on

the money market several of their stocks redeemable at different dates, they made each successive stock issued, prior to 1881, redeemable within sixty years from 1869, *i.e.*, each successive issue of stock was made redeemable within a shorter period until 1880, the stock issued in that year being redeemable in forty-nine years from its creation.

It is to be inferred from the wording of the Report of the Board of Works that the stock thus issued was not merely redeemable at the option of the board, but that the board were required by the terms of the issue to redeem it at par in the year 1929, and that, consequently, as years went on, a shorter period was constantly allowed for the repayment of the money borrowed by the board by this means.

This inconvenience, it will be observed, was necessarily experienced to a far greater extent by the Metropolitan Board of Works than it would be by any other local authority, in consequence of the magnitude of the loan transactions of that board, and the constant succession of issues of stock, by which the loans of that board have been raised. When other corporations bring out an issue of stock, they either once for all on such an occasion consolidate the mass of their existing loans by this means; or they effect this object at the most by two or three of such issues; for there is considerable difficulty in floating a small issue of local stock in the money market, and notwithstanding the rapid increase in local indebtedness, there are not yet many corporations, whose local loans are of such magnitude, that many issues of stock are necessary to absorb them. And the inconvenience even in the case of the Metropolitan Board of Works was not found to be so great, as to render the board desirous of making the new stock, issued in 1881, irredeemable. On the contrary, it was issued on the condition that it should be redeemed at par in 1941, *i.e.*, at the expiration of sixty years from the date of its creation.

Nor need the above inconvenience be experienced at all in any case in which the stock is merely made redeemable at par at the option of the local authority at the expiration of the prescribed period, as has been done in the case of the Birmingham stock. Such a condition by no means implies that it will be necessary for the local authority to redeem the stock at par at the end of the period, or that the amounts to be annually paid into the loans fund must necessarily be sufficient for that purpose. It will merely enable the authority at the expiration

of the prescribed period to exercise the option of redeeming the stock at par if, and to the extent that, they have then funds available for that purpose. If it is considered desirable, the stock may be made redeemable on these terms, not only at the expiration of the prescribed period, but at any time thereafter. This will ensure the redemption of the stock so soon as the loans fund is sufficient for the purpose, and will be in accordance with the intentions of the Legislature, as expressed in the majority of the Acts, which have conferred powers of borrowing on local authorities, viz., that a fund should be established, into which payments should be annually made of an amount sufficient to repay such moneys within a prescribed period, and that at the end of such period the moneys so borrowed should cease to be a charge on the local rates.

There is another inconvenience, which, it has been argued, renders it undesirable to issue redeemable stock, viz., that trustees will not be able to invest in it so readily, as in irredeemable stock, supposing that it rises above the redeemable value of the stock. With respect to this objection, it is sufficient to say that as it is not desirable in the interests of the local authority that the stock should rise greatly in value above the price fixed for its redemption, it can be of little moment to the local authority whether or not trustees buy it at a price exceeding its redemption value.[1]

There is one argument, which is perhaps oftener raised than any other against the issue of redeemable stock; and that is, that irredeemable stock is easier to bring out, and commands a better price than redeemable stock at the time of its issue. If this were true, it would not follow that any local authority would be justified in issuing it, and so obtaining a slight advantage to the present ratepayers at so serious a risk to the ratepayers of the future, as has already been shown to exist.[2] The facts, however, appear to be, that if the period redemption fixed for is distant, as is practically always the case, redeemable stock is brought out on quite as favourable terms as irredeemable. No stock has been more successfully floated than Metropolitan Consolidated Stock, which, as has been already seen, is a redeemable stock; and there was little, if any difference between the price which

[1] If it does so rise, the loans fund cannot be applied in redeeming the stock, except at a loss.

[2] See page 252.

the Birmingham redeemable stock, and the Liverpool irredeemable stock, both of which were three and a half per cent. stocks, were issued.

Payments into loans fund in respect of irredeemable stock.

There is, moreover, a practical inconvenience of a very serious character involved in the issue of irredeemable stock in connexion with the payments to be made into the loans fund for its redemption. Where a stock is redeemable at par, it is comparatively easy to calculate what the amounts of these payments should be; but how is it possible to tell what they ought to be, if the stock is irredeemable, and rises in value as time goes on?

An ingenious attempt has been made to solve this difficulty in the local Acts, which have authorized the issue of irredeemable stock, by means of an arrangement under which the local authority issuing such stock will be required from time to time to pay increased amounts into the loans fund, as the market value of the stock rises; the increased amounts being such as the Local Government Board from time to time, by order, determine. See section 78 (5) of the Derby Corporation Act, 1882, in Appendix (4). The effect of this arrangement will probably be that the loans fund will be of sufficient amount at the expiration of the prescribed period to buy up the stock, unless its market value rises very rapidly towards the end of such period—but considerable inconvenience may be caused by it in consequence of the constant changes which it may be necessary to make in the annual amounts to be set aside, in the event of the market value of the stock undergoing any considerable alteration—for whenever any such alteration takes place, new calculations of a more or less complicated nature will be necessary, for the purpose of ascertaining not merely what the increased amounts to be paid into the fund ought to be, but also how much ought to be in the fund at the expiration of each year, available for the extinction of the stock. The difficulties, which will thus be occasioned, will best be realized on reference to the very complex provisions, the nature of which has already been described,[1] which have been inserted in these Acts, for the purpose of determining the contributions to be made to the loans fund by the various rates, funds, and revenues of the borrowing authority, and the reductions which are, in certain contingencies, allowed to be made in the amounts set aside for the redemption of the stock.

[1] See pages 245 to 249.

Moreover, although the effect of the arrangement may be to secure the extinction of the stock within the prescribed period, it must not be forgotten that the extra burden imposed on the rates, in consequence of the rise in the market value of the stock, will be in no degree diminished thereby. All that the arrangement will bring about will be that this extra burden shall, so far as practicable, be divided between the ratepayers of successive years, not indeed equally, for it will necessarily fall more heavily on the ratepayers who contribute to the loans fund towards the end of the prescribed period, but in such a manner that so soon as the loss is ascertained, the ratepayers, for the time being, shall in some degree contribute towards it. The advantage, therefore, if any, of the issue of an irredeemable stock will be enjoyed exclusively by the ratepayers at the time of the issue of the stock, to the possible detriment of their successors during the whole of the prescribed period.

Issue of irredeemable stock unnecessary in any case.

Nor can it be argued that it is in any case necessary to issue irredeemable stock—for assuming that such stock would command a higher price than redeemable stock at the time of the issue, the borrowing authority would not in consequence have the power of raising any larger sums by the one method than by the other—for the more recent local Acts, which have authorized the creation of local stock, have expressly provided that the statutory powers of the borrowing authorities shall be extinguished, to the extent, not of the amount of stock created, but *of the money raised by the stock.* See section 84 (2) of the Derby Corporation Act, 1882, Appendix (4). Consequently the amount of capital, which a local authority may raise for the various purposes for which the stock may be created, will be precisely the same, whether the stock is raised at a premium or a discount.

And undesirable in the interests of posterity.

Bearing in mind the above considerations, it appears to the present writer that a local authority will, at any rate, at the present time, act imprudently, and without due regard to the interests of its successors, if it elects to issue irredeemable stock.

APPENDIX (1.)

THE CLAUSES OF THE COMMISSIONERS' CLAUSES ACT, 1847.

10 VICT. C. 16.

With respect to the Mortgages to be executed by the Commissioners.

And with respect to the mortgages to be executed by the commissioners, be it enacted as follows: Mortgages.

LXXV. Every mortgage or assignation in security of rates or other property authorized to be made under the provisions of this or the special Act [1] shall be by deed duly stamped, in which the consideration shall be duly stated; and every such deed shall be under the common seal of the commissioners if they be a body corporate, or if they be not a body corporate shall be executed by the commissioners or any five of them, and may be according to the form in the Schedule (B.) to this Act annexed or to the like effect; and the respective mortgagees or assignees in security shall be entitled one with another to their respective proportions of the rates and assessments or other property comprised in such mortgages or assignations respectively, according to the respective sums in such mortgages or assignations mentioned to be advanced by such mortgagees or assignees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such moneys, or of the dates of any such mortgages or assignations respectively. Form of mortgages.

[1] Section 2 of the Act provides that the expression "the special Act," shall be "construed to mean any Act which shall be hereafter passed constituting a body of commissioners, as herein-after defined, for the purpose of carrying on any undertaking, and with which this Act shall be incorporated," and the expression "the undertaking," shall mean the undertaking or works, of whatever nature, which shall by the special Act be authorized to be executed or carried on; and the expression "the commissions," shall mean the commissioners, trustees, undertakers, or other persons or body corporate, constituted by the special Act, or thereby entrusted with powers for executing the undertaking.

Register of mortgages to be kept and to be open to inspection.

LXXVI. A register of mortgages or assignations in security shall be kept by the clerk to the commissioners, and where by the special Act the commissioners are authorized or required to raise separate sums on separate rates or other property, a separate register shall be kept for each class of mortgages or assignations in security, and within fourteen days after the date of any mortgage or assignation in security an entry or memorial of the number and date thereof, and of the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such register may be perused at all reasonable times by any person interested in any such mortgage or assignation in security without fee or reward.

Transfers of mortgages.

LXXVII. Any person entitled to any such mortgage or assignation may transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the schedule (C.) to this Act annexed, or to the like effect.

Register of transfers to be kept.

LXXVIII. Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the clerk to the commissioners, and thereupon such clerk shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage or assignation in security, and for such entry the clerk may demand a sum not exceeding five shillings; and after such entry every such transfer shall entitle the transferee, his executors, administrators, or assigns, to the full benefit of the original mortgage or assignation in security, and the principal and interest thereby secured; and such transferee may in like manner assign or transfer the same again, *toties quoties;* and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, to make void, release, or discharge the mortgage or assignation so transferred, or any money thereby secured.

Interest on mortgages to be paid half-yearly.

LXXIX. Unless otherwise provided by any mortgage or assignation in security, the interest of the money borrowed thereupon shall be paid half-yearly to the several parties entitled thereto.

Power to borrow money

LXXX. If the commissioners can at any time borrow or

take up any sum of money at a lower rate of interest than any securities given by them and then be in force shall bear, they may borrow such sum at such lower rate as aforesaid, in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and other property which they may be authorized to mortgage or assign in security under this or the special Act, or any part thereof, with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage or assignation in security.

At a lower[1] rate of interest to pay off securities at a higher rate.

LXXXI. The commissioners may, if they think proper, fix a period for the repayment of all principal moneys borrowed under the provisions of this or the special Act, with the interest thereof, and in such case the commissioners shall cause such period to be inserted in the mortgage deed or assignation in security; and upon the expiration of such period the principal sum together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to receive such principal money and interest, and if no other place of payment be inserted in such deed such principal and interest shall be payable at the office of the commissioners.

Repayment of money borrowed at a time and place agreed upon.

LXXXII. If no time be fixed in the mortgage deed or assignation in security for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured with all arrears of interest, upon giving six months[2] previous notice for that purpose, and in the like case the commissioners may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or creditor shall be delivered to the clerk or left at the office of the commissioners, and if given by the commissioners shall be given either personally to such mortgagee or creditor, or left at his residence, or if such mortgagee or creditor be unknown to the commissioners, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the *London Gazette* if the office of the commissioners

Repayment of money borrowed when no time or place has been agreed upon.

[1] Note that the money may only be borrowed at a lower rate. On this point, see above, page 25.

[2] By section 3 the word "month" is defined as meaning calendar month.

is in *England*, the *Edinburgh Gazette* if it is in *Scotland*, or in the *Dublin Gazette* if it is in *Ireland*.

Interest to cease on expiration of notice to pay off a mortgage debt.

LXXXIII. If the commissioners shall have given notice of their intention to pay off any such mortgage or assignation in security at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the commissioners fail to pay the principal and interest due at the expiration of such notice on such mortgage or assignation in security.

Moneys borrowed on security of rates to be paid off in a limited period.[2]

LXXXIV. In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the commissioners shall every year appropriate and set apart out of such rates respectively a sum equal to the *prescribed*[1] part, and if no Part be prescribed one twentieth part of the sums so borrowed respectively as a sinking fund to be applied in payment of the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer bills or other Government securities,[2] or in *Scotland* deposited in one of the banks there incorporated by Act of Parliament or Royal Charter, and to be increased by accumulation in the way of compound interest or otherwise, until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof, which the commissioners shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner herein-after mentioned.

Mode of paying off mortgages.

LXXXV. Whenever the commissioners shall be enabled to pay off one or more of the mortgages or assignations in security which shall be then[3] payable, and shall not be able to pay off

[1] Section 2 of the Act provides that the word "prescribed" used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act; and the sentence in which such word occurs, shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used.

[2] As to the meaning of these words, see note 3 to section 234 of the Public Health Act, 1875, which will be found at page 145.

[3] It is not clear what is the meaning of the words "then payable." If they mean the time fixed for repayment in the security, why should six months from such time be required to elapse before the money is paid off? If no time is fixed in the security for repayment, the principal is only payable upon six months' notice from either party (see section 83), and if such

the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages or assignations in security belong, and shall cause a notice, signed by their clerk, to be given to the persons entitled to the money to be paid off, pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified, at the expiration of six months from the date of giving such notice.

Arrears of interest, when to be enforced by appointment of a receiver.

LXXXVI. Where by the special Act the mortgagees or assignees in security of the commissioners are empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due to them, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage or assignation in security has become payable, and after demand thereof in writing, the same be not paid, the mortgagees or assignee in security may, without prejudice to his right, to sue for the interest so in arrear in any of the superior courts, require the appointment of a receiver, by an application to be made as herein-after provided; and if within six months after the principal money owing upon any such mortgage or assignation in security has become payable, and after demand thereof in writing, the same be not paid, together with all interest due in respect thereof, the mortgagee or assignee in security, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts, may, if his debt amount to the prescribed sum, alone, or, if his debt do not amount to the prescribed sum, he may in conjunction with other mortgagees or assignees in security whose debts being so in arrear, after demand as aforesaid, together with his amount to the prescribed sum, require the appointment of a receiver, by an application to be made as herein-after provided.[1]

Arrears of principal and interest.

six months' notice has expired, and the security is, in the words of this section, "then payable," no object will apparently be gained by requiring a further six months' notice to be given. If, on the other hand, the words "then payable" mean payable at six months' notice from either party, it is not clear why the commissioners should be required before giving the notice to select by lot the securities they will pay off, for in the absence of such a requirement they might be able to pay off such of the securities as carry the highest rate of interest, or such of them as they can pay off on the most advantageous terms.

[1] With respect to the defects in this clause, see above, pages 57 to 59.

As to the appointment of a receiver.

LXXXVII. Every application for a receiver in the cases aforesaid shall in *England* or *Ireland* be made to two justices, and in *Scotland* to the sheriff, and on any such application such justices or sheriff may, by order in writing, after hearing the parties, appoint some person to receive the whole or a competent part of the rates[1] or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the rates or sums aforesaid, be fully paid; and upon such appointment being made all such rates and sums of money as aforesaid, or such part thereof as may be ordered by the said justices or sheriff, shall be paid to the person so to be appointed, and the money so paid shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed, and after such interest and costs, or such principal, interest, and costs have been so received, the power of such receiver shall cease.

Account books to be open to the inspection of mortgagees.

LXXXVIII. The books of account of the commissioners shall be open at all seasonable times to the inspection of the respective mortgagees or assignees in security of the commissioners, with liberty to take extracts therefrom, without fee or reward.

SCHEDULE (B.) Sec. 75.

Form of Mortgage.

By virtue of [*here name the special Act*], *we* [*here name the corporation if the commissioners be incorporated, or if not incorporated, five of the commissioners*], appointed in pursuance of the said Act, in consideration of the sum of
paid to the treasurer to the said commissioners by *A.B.* of
for the purposes of the said Act, do grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the rates, rents, profits, and other moneys arising or accruing by virtue of the said Act from [*here describe the rates or other property proposed to be*

[1] With respect to the appointment of a receiver of the rates, see above, pages 33 to 37.

mortgaged] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, rents, profits, or moneys, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of with interest at per centum per annum for the same, shall be fully paid and satisfied (the principal sum to be repaid at the end of years from the date hereof [*in case any period be agreed upon for that purpose*]). Given under our corporate seal, [*or* In witness whereof we have hereunto set our hands and seals, *or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland, as the case may be*] this day of One thousand eight hundred and

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SCHEDULE (C.) Sec. 77.

Form of Transfer of Mortgage.

I *A.B.* of in consideration of the sum of paid to me by *C.D.* of do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage [*or, if the deed be granted in Scotland*, a certain assignation in security], number made by "The commissioners for executing the [*here name the special Act*] to bearing date the day of for securing the sum of and interest [*or, if such transfer be by indorsement*, the within security], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates, rents, profits, or other moneys thereby assigned. In witness whereof I have hereunto set my hand and seal [*or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland*] this day of One thousand eight hundred and

APPENDIX (2).

THE METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1869.

32 & 33 Vict., c. 102.

An Act for making further provisions respecting the borrowing of money by the Metropolitan Board of Works, and for other purposes connected therewith.

[11th August, 1869.]

WHEREAS under the Acts mentioned in the first Schedule to this Act, the Metropolitan Board of Works has incurred debts now amounting in the whole to nearly eight million pounds;

And whereas it is necessary for the board to borrow such further sums for the purposes of the said Acts as, together with the sum already borrowed, will not exceed in the whole the amount of ten million pounds sterling, and it is expedient to authorize the board to raise the whole or any part of the said sum of ten million pounds by loans in manner herein-after provided, without the guarantee of the Commissioners of Her Majesty's Treasury, and for that purpose to create consolidated stock or annuities charged indifferently on all the securities mentioned in the said Acts, and to establish one fund out of moneys arising from those securities, for the purpose of paying the dividends on and redeeming such stock and annuities;

And whereas it is expedient otherwise to amend the Acts relating to the Metropolitan Board of Works;

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Metropolitan Board of Works (Loans) Act, 1869.

Definition of terms.

2. In this Act,—

The term "board" means the Metropolitan Board of Works.

The term "Treasury" means the Commissioners of Her Majesty's Treasury.

The term "improvement fund" means the Thames embankment and metropolis improvement fund constituted under the London Coal and Wine Duties Continuance Act, 1861, and the Acts amending and continuing the same.

Each of the several series of Acts specified in the different parts of the first Schedule to this Act is in this Act referred to by the collective name given to such series in such separate part.

Exercise by board of borrowing powers.

3. After the passing of this Act the board shall not (except for such temporary period not exceeding six months as the Treasury may from time to time sanction) raise, otherwise than in conformity with this[1] Act and with the sanction of the Treasury, any money under any powers of borrowing, whether conferred by the Acts mentioned in the first Schedule to this Act, or otherwise howsoever.

Creation by board of consolidated stock.

4. The board, for the purpose of raising such portion of the loans authorized by the Acts mentioned in the first Schedule to this Act for the purposes of those Acts as the Treasury may from time to time sanction, may create capital stock, to be called the Metropolitan Consolidated Stock, in this Act referred to as consolidated stock, and to be issued in such amounts and manner, at such price and times, on such terms, subject to such conditions, with such dividends, and redeemable (at the option of the board) at par at such times and on such conditions as the Treasury, before the creation thereof, may from time to time approve.

Security for stock.

5. No holder of any portion of consolidated stock shall have any priority or preference by reason of the prior creation of such stock or otherwise, and all consolidated stock created for the purpose of the Acts mentioned in the first Schedule to this Act, or of any Act hereafter to be passed, and the dividends thereon, and the sums required for the redemption thereof, shall be charged indifferently on the whole of the lands, rents,

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[1] The Board have since been authorized to raise money by the issue of Metropolitan Bills by the Metropolitan Board of Works (Money) Act, 1877, sections 15 to 22, and by subsequent Acts, see pages 107 and 108. Section 25 of the Act of 1877 also provided that the above section should authorize the raising, in manner therein mentioned, of any moneys by the board with the sanction of the Treasury under any powers of borrowing; see page 109. Similar provisions are contained in sections 24 and 28 of the Metropolitan Board of Works (Money) Acts, 1878 and 1879.

and property belonging to the board, under the Acts mentioned in the first Schedule to this Act, and on all moneys which can be raised by the board by rates under this Act, and on the improvement fund, subject to all charges existing at the passing of this Act on such lands, rents, property, moneys, and fund respectively, and shall be a first charge thereon after those charges; and all moneys required for payment of the dividends on such stock, and the sums required to be raised for the redemption of such stock as mentioned in this Act, shall be raised out of the improvement fund and metropolitan consolidated rate as in this Act mentioned.

Application of money raised.

6. Where any stock has been created under this Act in order to raise any portion of a loan authorized by any of the Acts mentioned in the first Schedule to this Act for the purposes of any of those Acts, such stock is referred to in this Act as created for the purposes of such Act, and the money raised thereby shall be deemed to have been borrowed under and for the purposes of such Act, and shall (subject to the provisions of this Act) be applied accordingly.

Stock, &c. to be personal estate.

7. All consolidated stock shall be personal[1] estate, and shall not descend to the heir or be liable to any foreign attachment by the custom of London or otherwise.

Advance of money by Public Works Loan Commissioners.

8. The Public Works Loan Commissioners may advance money to the board on the security of consolidated stock, and without requiring any further or other security, the said advances to be repaid by such instalments and within such period as may in each case be agreed upon with the approval of the Treasury.

Investment and advance by commissioners for the reduction of the National Debt.

9. The Commissioners for the Reduction of the National Debt, if they think fit, with the approval of the Treasury, may from time to time, out of any moneys coming into their hands under any Act relating to savings banks or to post-office savings banks, make advances to the board on the security of consolidated stock without any further or other security, and may invest the said moneys in such stock.

Books to be kept for consolidated stock.

10. The board shall cause to be kept at their office, or at some bank to be approved by the Treasury, books in which the

[1] The consolidated stock is impure personal estate, and a bequest of it to a charity will be void under the Mortmain Act; see *Cluff* v. *Cluff*, L. R. 2 C. D. 222. The case is different where a local security is charged on rates only; see *Jervis* v. *Lawrence*, L. R. 22 Ch. D. 337; *Attree* v. *Hawe*, L. R. 9 Ch. D. 337; *Walker* v. *Milne*, 11 Bea. 507. In such a case, the security is pure personal estate.

names and addresses of the several persons[1] and bodies corporate from time to time entitled to consolidated stock, and the amounts to which they are respectively entitled, and all transfers thereof, shall be duly entered.

11. Consolidated stock shall be transferred only as follows:— Transfer of stock.

(1.) The transfer shall be made in the said books, and shall be signed in such books by the *transferee*[2] or by his attorney duly authorized in that behalf, which authority shall be given by writing under his hand and seal attested by two or more witnesses:

(2.) The transfer may be in the form contained in the second Schedule to this Act, which shall be effectual in law to pass to the transferee all the interest of the transferor in the stock expressed to be transferred and the dividends thereon:

(3.) The acceptance of the transfer may be signified by the transferee, or his attorney authorized in manner aforesaid in that behalf, subscribing such acceptance in the said books:

(4.) A person becoming entitled to any stock in consequence of the death, bankruptcy, or marriage of the owner, or by any lawful means other than by transfer under this Act, shall produce such evidence of his title as may be reasonably required by the board, or by the persons or body corporate who keep the said books.

No notice of any trust, express, implied, or constructive, shall be entered in the said books or receivable by the board, or by any persons or body corporate who keep such books.

12. *The board, persons, or body corporate who keep the said books for transfers may, for such period not exceeding fourteen days as they may from time to time fix previous to each payment* Closing of transfer-books.[3]

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[1] As to the effect which the Married Women's Property Act, 1882, has had on the right of a married woman to hold stock, see note 2 to section 4 of the Local Loans Act, 1875, in Appendix (3).

[2] The word "transferor" is substituted for "transferee" in this paragraph by section 7 of the Metropolitan Board of Works (Loans) Act, 1870.

[3] For this section, the 12th section of the Metropolitan Board of Works (Loans) Act, 1871, has substituted a provision to the effect, that the books for the transfer of the stock may be closed on any day in the month next preceeding that on which the dividends are payable, but so that the books be not at any time so closed for more than fifteen days, and that the persons and bodies corporate, who on the day of such closing are inscribed as holders of the stock shall, as between themselves and their transferees, be entitled to the dividend on the stock becoming payable next after that day.

of dividend, close the books, and shall give seven days notice of the day on which such books will be closed by advertisement in some daily morning newspaper circulating generally in the metropolis.

Books to be evidence.

13. The books so kept under the provisions of this Act shall be evidence of all matters therein entered under the provisions of this Act, and of the title of persons or bodies corporate entered therein as owners of any consolidated stock who are mentioned therein as such owners.

Certificates of stock.

14. The board, persons, or body corporate who keep the said books may, if the board think fit, issue to the holder of any consolidated stock a certificate under the hand of some officer of the board or body corporate or of such persons, which certificate shall specify the amount of stock to which such holder is entitled, and such certificate shall be evidence of the title of the holder at the date of the certificate to the amount of stock stated therein, but the want of such certificate shall not prevent the owner of any consolidated stock from transferring the same.

Certificate to be renewed when destroyed.

15. If any such certificate be worn out or damaged, then the same may, upon the production thereof, be cancelled, and another similar certificate may be given to the holder of the stock therein specified, or if such certificate be lost or destroyed, then upon proof thereof to the satisfaction of the board, persons, or body corporate who keep the said books, a similar certificate shall be given to the holder of the stock specified in the certificate so lost or destroyed, and in either case a due entry of the substituted certificate shall be made in the said books, and for every such certificate given in pursuance of this section, a fee not exceeding two shillings, to be carried to the account of the board, may be demanded.

Provisions of 26 & 27 Vict., c. 28, as to certificates to bearer, to extend to this Act.

16. The Stock Certificate Act, 1863 (which relates to the issue to holders of stock in the public funds of certificates to bearer transferable by delivery), shall extend to consolidated stock in the same manner as if such Act were herein enacted, with the following modifications; namely—

(1.) The term "the bank" shall be construed to mean the board, persons, or body corporate who keep the books for the transfer of consolidated stock.

(2.) The terms "public stocks" and "stock" shall be construed to mean consolidated stock.

(3.) The term "the books of the bank" shall be construed

to mean the books kept for the transfer of consolidated stock in pursuance of this Act.

(4.) All fees shall be paid to the account of the board.

(5.) There shall be charged on every stock certificate a stamp duty of an amount equal to three times the amount of the stamp duty which would be chargeable on a transfer of the stock specified in the certificate.

(6.) The provision respecting a stock certificate, in respect of which no coupons have been presented for payment for a period of ten years, shall not extend to consolidated stock.

Arrangement with bank.

17. The board may enter into such arrangement with any bank for carrying into effect the provisions of this Act with reference to the creation and transfer of consolidated stock, and the management thereof, and the keeping of the said books, and for the proper remuneration of the bank with reference thereto, as may be approved by the Treasury.

Stamp duty[1] on transfers.

18. There shall be paid in respect of every transfer of consolidated stock under this Act a stamp duty of two shillings and sixpence for every full sum of one hundred pounds, and also for any fractional part of one hundred pounds, of the nominal amount of the stock transferred.

Forgery, &c. of transfers stock, &c.

19. For the purposes of the Act of the session of the twenty-fourth and twenty-fifth years of Her Majesty's reign, chapter ninety-eight, "to consolidate and amend the Statute Law of England and Ireland relating to indictable offences by forgery," all consolidated stock shall be deemed to be capital stock of a body corporate within the meaning of that Act.

Making false entries in books.

20. Any person who, with intent to defraud, makes any false entry in or alters any word or figure in any of the said books for transfers, or in any manner falsifies any of the said books, or makes any transfer of any consolidated stock, in the name of any person who is not the true owner thereof, shall be guilty of felony, and on conviction shall be liable to penal servitude for any term not exceeding fourteen years, or be imprisoned for any term not exceeding two years, with or without hard labour.

Making out false dividend warrants.

21. Any person who, being a clerk, officer, or servant of or employed by the board, or the persons or body corporate who keep the books for transfer of consolidated stock, does, with

[1] As regards the composition now required to be paid in respect of this duty, see note 1 on page 103, and the note to section 6 of the Local Loans Act, 1875, Appendix (J).

intent to defraud, make out or deliver any stock certificate, dividend warrant, or document for the payment of money in relation to any consolidated stock for a greater or less amount than the person on whose behalf such certificate, warrant, or document is made out is entitled to, shall be guilty of felony, and shall be liable on conviction to be kept in penal servitude for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Power to levy consolidated rate.

22. The board, for the purpose of paying the dividends on and redeeming the consolidated stock, and also of defraying the expenses authorized to be incurred and incurred by them in the obtaining or the execution of the Acts mentioned in the first Schedule to this Act or any of them, and of defraying the sums required for the payment of the principal and interest of and the sinking funds for any securities granted by the board for the purposes of those Acts, or any of them, before the passing of this Act, shall (in lieu of all rates or assessments authorized at the passing of this Act to be assessed by them generally over the metropolis) from time to time assess and raise a rate to be called the Metropolitan Consolidated Rate, in this Act referred to as the consolidated rate.

Such rate shall be assessed and raised in manner provided by the Metropolis Management Act, 1855, and the Acts amending the same, with respect to the sums required for defraying the expenses of the board in the execution of that Act, and to sums assessed for the purposes of the Main Drainage Acts, and may be assessed wholly or in part in respect of expenses incurred or to be incurred, and also in respect of any unpaid balance of a former rate; and all the provisions of the Metropolis Management Act, 1855, and the Acts amending the same concerning the estimate on which assessments by the board are to be made, and for and in relation to the assessing, raising, and enforcing payment of the sums assessed by the board, shall, subject to the provisions of this Act, extend and apply to and in the case of the consolidated rate in the same manner as if that rate were therein mentioned instead of the sums required for defraying the expenses of the board incurred in the execution of the Metropolis Management Act, 1855, and for the main drainage rate respectively.

Every precept issued by the board for the purposes of the Metropolitan Consolidated Rate shall specify, first the proportion of the amount named in the precept which is required for the

purpose of paying the principal and interest of and sinking fund for securities granted by them before the passing of this Act, and the dividends on and the sums required for the redemption of consolidated stock under this Act, and secondly the proportion of such amount which is required for all other purposes of the board.

In making an estimate for the first-mentioned portion of the consolidated rate the board shall compute the part required in respect of securities granted or stock issued for the purposes of the Main Drainage Acts and the Fire Brigade Act respectively.

In making an estimate for the last-mentioned portion of the consolidated rate the board shall not estimate the sum required for the purposes of the Fire Brigade Act as larger than a sum which would be produced by a rate of one halfpenny in the pound on the gross value of the property assessed to the Metropolitan Consolidated Rate and shall compute the part of the said portion of the consolidated rate required for those purposes.

The board shall state in every precept and shall keep a record of all computations required to be made by this section, which record shall be open to inspection by any person on payment of a fee not exceeding one shilling, and shall be conclusive for all purposes whatsoever.

Nothing in this section shall delay or accelerate, or authorize the board to delay or accelerate, the repayment of any principal or interest of, or the providing of a sinking fund for any securities granted by the board before the passing of this Act for the purposes of the Main Drainage Acts without the consent of the holders thereof; and while such securities remain undischarged, the board shall, from time to time, ascertain the amount which would have been raised by the levying of the main drainage rate, and the amount which would have been so raised shall be charged on the consolidated rate, and be deemed to be, from time to time, payable thereout before any portion of that rate is applied to any other purpose.

Nothing in this section shall extend to any sum levied under section one hundred and eighty-one of the Metropolis Management Act, 1855.

Saving of rights.

23. Where any portion of the consolidated rate represents any rate which, for the purposes of any contract or otherwise, is deemed to be a landlord's or tenant's rate, such portion shall for those purposes be deemed to be such landlord's or tenant's rate

as the case may be, and all rights at the passing of this Act existing as between landlord and tenant, or enjoyed by any person under statute, contract, or otherwise in relation to the sums or rates assessed by the board, shall continue to exist and be enjoyed in relation to the consolidated rate as between and by the same persons and in the same manner as in relation to such sums or rates.

Orders of vestry and district board for raising money required for consolidated rate.

24. Where a vestry or district board make an order requiring the overseers (including in the term any body of persons performing the duties of overseers) of any parish in their district to levy and pay over the sum which such vestry or district board require to raise for the purpose of satisfying or of replacing any sum expended in satisfying any precept of the board for the purposes of the consolidated rate, such vestry and district board shall distinguish in their order the sum to be levied in such parish for that purpose, and the sum (if any) required for other purposes of such vestry and district board; and the overseers or collectors shall, in the demand notes or receipts to be given by them for the sums levied or collected in pursuance of such order, distinguish the rate in the pound required to meet the sum specified in the order to be required for the purpose of satisfying such precept, and the rate in the pound specified to be required for other purposes.

Every such order, demand note, and receipt shall also specify the whole sum paid by such vestry or district board for satisfying such precept, and the proportions specified in the precept as required for the purposes of securities and consolidated stock, and for other purposes of the board respectively, and for the purposes of the Main Drainage Acts and the Fire Brigade Act respectively.

Exempted places.

25. The places mentioned in Schedule C to the Metropolis Management Act, 1855, and every liberty, precinct, and place in the metropolis, shall be liable to the Metropolitan Consolidated Rate, except so far as they may be entitled under the General Improvement Acts to any exemption from any rate or assessment or part of a rate; and for this purpose they shall be deemed to be respectively benefited by all works executed (before or after the passing of this Act) by the board under the Main Drainage Acts, and those works shall be deemed works for carrying into effect a plan for preventing the sewage of the metropolis from flowing into the river Thames in or near the metropolis.

Consolidated Loans Fund.

26. For the purpose of paying the dividends on and redeeming consolidated stock created under this Act there shall be established a fund to be called the Consolidated Loans Fund of the metropolis, in this Act referred to as the Consolidated Loan Fund, and subject to the provisions of this Act, the board shall keep a separate account of such fund.

Moneys applicable to Consolidated Loans Fund.

27. The board shall carry to the Consolidated Loans Fund the moneys following (after providing for all charges on such moneys existing at the passing of this Act and to which the same shall for the time being be applicable); that is to say,—

(1.) All moneys, whether in the nature of capital or otherwise, arising from the sale, lease, or other disposition of lands, rents, and property belonging to the board:

(2.) The residue of the improvement fund which may come into their hands in the manner mentioned in this Act:

(3.) Such an annual sum in every year out of the consolidated rate, and out of the contributions paid to the board in pursuance of the Fire Brigade Act or out of one of such sources as may be equal to two per cent. on the total nominal amount of consolidated stock, whether it has been cancelled or not; or

(4.) Such greater or less annual sum as the Treasury may, from time to time, approve as being in their opinion necessary in order to pay the dividends on and to redeem all the consolidated stock in sixty years from the date of the creation thereof.

Application of Consolidated Loans Fund.

28. The board shall from time to time apply the Consolidated Loans Fund according to such regulations as may be approved by the Treasury, first in the payment of the dividends on consolidated stock, and then in one or more of the following modes, namely, in purchasing metropolitan consolidated stock, and in redeeming metropolitan consolidated stock, and in payment of the principal of the securities granted before the passing of this Act.

The board may in the meantime invest such fund (subject to the said regulations) in Government securities,[1] the interest of which, and the resulting income thereof, shall form part of the Consolidated Loans Fund and shall be applied and may be invested in the same manner.

[1] The fund may now in certain cases be invested in making loans to other local authorities. See section 20 of the Metropolitan Board of Works (Money) Act, 1881, to which attention is drawn at pages 68 and 237.

All consolidated stock purchased and redeemed, and all securities paid in pursuance of this section, shall be cancelled, and thereupon all dividends and interest in respect thereof shall be extinguished.

Application of Thames Embankment fund.

29. After the passing of this Act, the Treasury shall, in every half-year or other period fixed by them, apply all moneys from time to time becoming part of the improvement fund in such half-year or other period until the fifth of July, one thousand eight hundred and eighty-eight, as follows :—

(1.) In applying in each year, in continuation of the like payments directed by the Thames Embankment and Metropolis Improvement (Loans) Act, 1868, the sum of one hundred and eighty-five thousand pounds for payment of interest from time to time due, and repayment of the principal moneys advanced on the securities issued before the passing of the last-mentioned Act, with the guarantee of the Treasury, under the Thames Embankment and Metropolis Improvement (Loans) Act, 1864, or such other yearly sum as the board and the respective holders of such securities from time to time mutually agree upon, so that such principal moneys, and all interest thereon, may, unless otherwise agreed between such holders and the board, be paid off and discharged on or before the fifth day of July, one thousand eight hundred and eighty-two.

(2.) Then in paying the interest for the time being due on securities granted, after the passing of the Thames Embankment and Metropolis Improvement (Loans) Act, 1868, and before the passing of this Act, under or for the purposes of the Embankment Acts, and in repaying the principal moneys advanced on such securities.

(3.) Then in paying the residue to the board to be carried by them to the Consolidated Loans Fund.

Transfer of improvement fund to board.

30. When all securities granted before the passing of this Act with the guarantee of the Treasury, under the Thames Embankment and Metropolis Improvement (Loans) Act, 1864, and the Thames Embankment and Metropolis Improvement (Loans) Act, 1868, or either of those Acts, have either been paid or converted under this Act, the Treasury may declare that all their liability under such guarantee has ceased, and that after the date in that behalf mentioned this section shall take effect.

Such declaration shall be published in the *London Gazette*,

and thereupon after the date in that behalf mentioned in such declaration this section shall take effect, and the Improvement Fund account shall be transferred from the Treasury into the name of the board, and the duties payable to that account under the London Coal and Wine Duties Continuance Act, 1861, and the Acts continuing the same, shall continue to be paid to such account, and the improvement fund shall be applied by the board in the manner in which it is directed by this Act to be applied by the Treasury, and the accounts thereof shall, for the purpose of audit and all purposes whatever, be deemed to be accounts of the board, but shall, subject to the provisions of this Act, be kept as separate accounts. 24 & 25 Vict., c. 42.

31. The board shall cause to be kept proper accounts showing the appropriation of the moneys raised by the stock created under this Act for the purposes of the different series of Acts, namely, the General Improvement Acts, the Main Drainage Acts, the Embankment Acts, and the Fire Brigade Act respectively. Separate accounts of amount raised for different Acts.

All or any of the accounts of the board may be from time to time consolidated in such manner and on such conditions as the Treasury approve, and the accounts so kept shall be deemed sufficient for the purposes of any Act and all other purposes.

32. Where the board before the passing of this Act have granted any security for the purposes of any of the Acts mentioned in the first Schedule to this Act, they may enter into an arrangement with the holder of such security for the conversion thereof into such amount of consolidated stock as may be arranged between them. Such arrangement shall be made according to such regulations and on such terms as may be approved by the Treasury. Conversion of existing securities into consolidated stock.

33. Any person who holds any security granted by the board before the passing of this Act for the purposes of any of the Acts mentioned in the first Schedule to this Act, and who is one of the persons enabled by the Lands Clauses Consolidation Act, 1845, to sell land under that Act, may consent to any arrangement approved by the Treasury under this Act, for the conversion of such security into consolidated stock, and to the payment of such security before the time limited for the payment thereof, and accept money for such consent in the same manner as if such person was the absolute owner in his own right of such security, and such person is hereby indemnified for so doing. Consent of trustees, incapacitated persons, &c., to conversion.

Creation of stock for paying off money borrowed, &c.

34. For the purpose of raising money, or to pay off any security granted before the passing of this Act by the board for the purposes of any of the Acts mentioned in the first Schedule to this Act, and for the purpose of the conversion of any such security, the board may create consolidated stock under the provisions of this Act, in like manner and with the like sanction as they may create the same for the purpose of raising money for the purposes of the said Acts, and the money raised by such stock shall be applied in such payment, and all stock created under the provisions of this section shall be deemed to be created and the money raised thereby to have been borrowed for the purposes of the Acts for the purpose of which the original security was granted.

Sinking fund of existing securities.

35. Where any security granted before the passing of this Act is paid off out of the Consolidated Loans Fund, or by means of money raised by the creation of stock under this Act, or is converted into stock, and there is any sinking fund which has been formed for the payment of such security, either alone or jointly with other securities, the board shall carry to the Consolidated Loans Fund such sinking fund, or such proportion thereof as may be the proportion which such security bears to the total of the securities for which such fund is the sinking fund.

Additional borrowing powers of board.

36. The board may create consolidated stock for the purpose of raising, in addition to the loans authorized by the Acts mentioned in the first Schedule to this Act, such further sums as the Treasury may sanction for the following purposes; namely,

(1.) For the purpose of completing the works authorized by the Main Drainage Acts, and for covering in and otherwise completing and making efficient the main sewers transferred to and vested in the board by the Metropolis Management Act, 1855:

(2.) For the purpose of completing the works authorized by the Embankment Acts:

(3.) For the purpose of providing station houses, fire engines, fire escapes, and permanent plant for the purpose of the Fire Brigade Act:

and all the provisions of this Act shall apply in like manner as if such sums were loans authorized by the Main Drainage Acts, the Embankment Acts, and the Fire Brigade Act respectively, and all the provisions of those Acts relating to the execution of works respectively authorized by them shall continue in force

and extend to the works executed by means of the money raised in pursuance of this section, and all stock created under this section shall be deemed to be created for the purposes of the above-mentioned Acts respectively.

Loans by board to managers of Metropolitan Asylum District.

37. Where the managers of the Metropolitan Asylum District require to borrow money under "The Metropolitan Poor Act, 1867," and the Acts amending the same, such managers may borrow and the board may lend on the security authorized by those Acts such sums as the managers may have been authorized by the Poor Law Board,[1] in pursuance of those Acts, to borrow, not exceeding in the whole five[2] hundred thousand pounds.

For the purpose of raising the money so lent to the managers, the board may create consolidated stock under the provisions of this Act, in like manner and with the like sanction as they may create the same for the purpose of raising money for the purposes of the Acts mentioned in the first Schedule to this Act, and all the provisions of this Act shall apply as if such money were raised and stock were created for the purposes of the last-mentioned Acts, with this exception, that the money required in pursuance of this section may be borrowed by the board in addition to the sum limited by this Act.

All sums received by the board from the said managers in respect of interest on or the principal of such loan shall be carried to the Metropolitan Consolidated Loans Fund.

Notwithstanding anything in the Metropolitan Poor Act, 1867, and the Acts amending the same, the amount so lent by the board shall be repaid to them by the said managers, with interest, within such period, not exceeding sixty years, as may be agreed upon between the board and the said managers, subject to the approval of the Treasury.

The board may lend and the managers may borrow money in pursuance of this section for the purpose of repaying any loan due at the passing of this Act from the said managers.

The board and the said managers may execute all such deeds and documents and do all such acts as may be necessary or expedient for carrying this section into effect.

Limit of borrowing powers.

38. The board shall not, after the passing of this Act, borrow exclusively of any amount borrowed for the purposes of a loan to the managers of the Metropolitan Asylum District an

[1] Now the Local Government Board.

[2] This limitation has been extended from time to time by subsequent Loans Acts of the Metropolitan Board of Works.

amount which, together with the amount actually owing by them at the passing of this Act, after deducting the market value at the date of the passing of this Act of all sinking funds created in pursuance of any of the Acts mentioned in the first Schedule to this Act, and remaining at that date in the hands of the board, exceeds in the whole ten[1] million pounds sterling actually received by them; provided that this shall not prevent the board from raising any money under the provisions of this Act for the purpose of paying off securities granted before the passing of this Act, and all moneys so raised shall be duly applied by the board accordingly.

Payment of dividends.

39. The dividends on all consolidated stock shall be paid on such days as may be from time to time fixed by the board with the approval of the Treasury.

Appointment of a receiver in certain cases.

40. Any person or body corporate entitled to any consolidated stock or to any security granted by the board may, if default be made for a period of not less than two months, after demand in writing, in the payment of dividend on such stock or of interest on any such security, apply to the Court of Chancery in a summary way for the appointment of a receiver, and the Court of Chancery may, if the court think fit, on such application appoint a receiver on such terms and conditions, and with such powers, as the court think fit. Such person shall have the same power of collecting and receiving and applying all moneys liable to be carried under this Act to the Consolidated Loans Fund, and of assessing and raising the metropolitan consolidated rate for the purpose of obtaining such moneys as the board or any officer thereof may have, and shall apply all such moneys, after payment of expenses and costs, under the direction of the court, for the purposes of and in conformity with this Act. The court may at any time discharge such receiver, and shall have full jurisdiction over such receiver, and the applicant and all persons and bodies interested in the acts of the receiver, in the same manner and to the same extent as if a suit had been duly instituted for the administration of the affairs of the board, and a receiver had been appointed in such suit.

The Lord Chancellor of Great Britain, with the advice and assistance of the Lords Justices of the Court of Appeal in Chancery, the Master of the Rolls and the Vice-Chancellors, or any two of those judges, may, from time to time, make

[1] This limitation has been extended for various purposes by the annual Loans Acts of the Metropolitan Board of Works.

general orders for the regulation of the practice of the Court of Chancery under this section.

Moneys received by the board to be paid into bank to their account.

41. All sums of money, bills, and drafts which are received by the board under the provisions of this Act shall, from time to time, within two days after the same have been received, or within two days after any bill has been accepted, completed, and perfected, if the same is not accepted, completed, and perfected at the time it is received, be paid by the board into the hands of some bank to be appointed by the board with the approval of the Treasury, for which the receipt of one of the cashiers or other officers of such bank shall be a sufficient discharge; and all such moneys, bills, and drafts so to be paid as aforesaid shall, from time to time, be placed to the account of the board with such bank, and shall be applied and disposed of by the board for and towards the several purposes to which the same are by law applicable.

Exemption of purchasers of stock from inquiries into application of money, regularity of proceedings, &c.

42. A person or body corporate purchasing any consolidated stock, or advancing money to the board on the security of such stock, shall not be bound to see or enquire whether such stock is created or such advances are required for the purposes of the Acts mentioned in the first Schedule to this Act, or is or are within the borrowing powers of the board, or otherwise in accordance with the provisions of this Act, or any regulations made thereunder, and shall not be prejudiced by the same not being so, and shall not be bound to see to or enquire into the application of the money or any part of the money arising from such stock or advances, or be in any way responsible for the non-application thereof, and shall not be bound to enquire whether the board so raising money, or any meeting thereof, was properly constituted or convened, or that the proceedings at any meeting of such board were legal or regular.

Approval of Treasury.

43. The approval, sanction, or certificate of the Treasury, where required under this Act, may be signified by the signature of any officer appointed by them for the purpose, and shall, until the contrary is proved, be deemed to have been given, and the holder of consolidated stock shall not be prejudiced by reason of the absence of any such approval, sanction, or certificate.

Purchasers of land to be freed from charges.

44. Where the board sell or lease or otherwise dispose of to any person or body corporate any land, rents, or property charged under the provisions of this Act as security for any consolidated stock, such land, rents, and property, shall, in the

hands of such person or body corporate, be absolutely freed of every such charge, and such person or body corporate shall not be bound to see to or enquire into the application of the money arising from such sale to the Consolidated Loans Fund or otherwise in manner directed by this Act, or be in any way responsible for the non-application thereof.

Power of board to sell, &c., land.

45. Nothing in this Act shall affect any power or duty of the board to sell, lease, or otherwise dispose of land, rents, or property belonging to them, or to apply the moneys in the nature of capital arising from such sale, lease, or disposition, in discharge of such liabilities and securities as are a charge on the same in priority to the charge created by this Act, or affect the claim of any person or body corporate under any of the Acts mentioned in the first Schedule to this Act, or otherwise existing at the passing of this Act, to such moneys or any part thereof.

Creation by board of annuities.

46. The board may, in lieu of any portion of consolidated stock authorized to be created under this Act, create for the like purpose terminable annuities, to be called metropolitan annuities, and to be granted at such rate of interest on such terms, subject to such conditions, and terminable after such number of years as the Treasury may, before the creation thereof, from time to time approve; and throughout this Act the term "stock" shall be construed to include annuities so created, and all the provisions of this Act shall be construed accordingly, subject to the following qualifications; namely,

(1.) The term "dividend" shall be construed to mean the portion of the annuity which represents interest.

(2.) The term "nominal amount of stock" shall be construed to mean the capital value of the annuity at the time when such nominal amount is required to be ascertained, such capital value to be calculated on the same principles as the calculation made at the time of its creation.

(3.) The term "redeeming stock" and terms referring thereto shall be construed to mean paying the portion of instalments of any annuity which represents capital.

(4.) Instalments of an annuity shall be paid on such days as may, from time to time, be fixed by the board with the approval of the Treasury.

(5.) An appointment of a receiver may be made where one or more of the applicants happen to be entitled partly to stock and partly to annuities, or where one or more of the applicants happen to be entitled to stock and one or

more to annuities, as well as where he or they are entitled to stock alone or annuities alone.

(6.) Where power is given by this Act to create stock, or to lay out the Consolidated Loans Fund in the purchase of stock, or to convert any security into stock, or to invest in or advance money on the security of stock, such creation, purchase, conversion, investment, or advance may be of, in, into, or on the security of annuities only, or partly annuities and partly stock.

(7.) There shall be paid in respect of every transfer of metropolitan annuities a stamp[1] duty of two shillings and sixpence for every full sum of one hundred pounds, and also for any fractional part of one hundred pounds of the value of the annuities transferred, which shall be computed in the case of a *bonâ fide* sale on the amount of the purchase money, and in any other case upon the average selling price of the annuities transferred on the day of the date of the transfer.

Saving rights of holders of existing securities.

47. Nothing in this Act shall affect the security or rights of any person or body corporate who may, before the passing of this Act, have advanced money to the board for the purposes of the Acts mentioned in the first Schedule to this Act, or who may, for the time being, hold any securities granted by the board under those Acts before the passing of this Act, so long as such persons or body corporate have not been paid the principal and interest due in respect of such advances and securities; or made an arrangement for the conversion of such security under this Act; and nothing in this Act shall prejudice or affect the guarantee given by the Treasury before the passing of this Act for the payment of the principal and interest of such securities; and the Treasury and the board shall respectively during the same period (whenever so required by the holders of such securities) apply the improvement fund and the funds and moneys under the control of the board in such manner, and perform all such acts and exercise all such powers, and, if necessary, levy the same rates and assessments as they would have been required to do for the benefit and security of the holders of such securities if this Act had not passed.

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[1] As regards the composition now required to be paid for this duty, see note 1 on page 103. The amount expended in such composition may be raised by the creation of consolidated stock. See section 8 of the Metropolitan Board of Works (Loans) Act, 1875, page 106.

Provided, that where the repayment of the sums borrowed is made by the security dependent on the state of the funds charged with such repayment, and no time has been expressly limited by the security for the payment of the money advanced to the board thereon, the holder of such security shall not be entitled to have the amount secured thereby paid to him at any earlier time than if this Act had not passed, or to have any larger proportion of the rate or fund which is charged with the same raised or applied, than he would have been entitled to have raised or applied, if this Act had not passed, that is to say, than the proportion which the amount of his security bears to the total amount of securities charged on that rate or fund before the passing of this Act, and having the same rank as to priority, but the board may at any time, with his consent, repay out of the Consolidated Loans Fund the principal money due on the security.

Uncompleted contracts for loans.

48. Where at the passing of this Act the board have entered into any contract for any loan, with or without the guarantee of the Treasury thereon, and the whole of such loan has not been paid or the securities therefore have not been granted, for the purposes of this Act, such loan shall be deemed to be actually owing at the date of this Act and to have been advanced, charged, and secured according to the terms of such contract, and the guarantee of the Treasury (if given), to have been given, and the securities for such loan to have been granted and issued before the passing of this Act.

Annual return to be laid before Parliament.[1]

49. On or before the first of June in every year the board shall prepare a return, in such form as may be, from time to time, directed by the Treasury, showing up to the twenty-fifth of March preceding the amount of consolidated stock, and the application of the money raised by such stock, and the sums carried to and the application of the Consolidated Loans Fund, and such other particulars respecting their loan tran-

[1] Section 13 of the Metropolitan Board of Works (Loans) Act, 1875, requires the board to prepare in every year a further return to be laid before Parliament, showing—1. All moneys raised by the board under that or any further Act for purposes mentioned in that Act (*i.e.* general improvements, fire brigade purposes, loans to vestries, district boards, boards of guardians, the managers of the Metropolitan Asylum District and other public bodies, composition for stamp duty, &c.) 2. In relation to every parish, district, union or place, in respect whereof a loan is obtained from the board under that Act or any further Acts; (1.) The annual rateable value of the property therein; (2.) As nearly as may be, the actual indebtedness of each parish, district, union, or place in respect of loans previously contracted.

sactions, and such estimate of the expenditure of the board for all purposes for the year commencing on such twenty-fifth of March, as the Treasury may, from time to time require, and such return shall be laid before both Houses of Parliament on or before the said first of June, if Parliament be then sitting, and if not, within ten days after the next meeting of Parliament.

Provisions repealed in third Schedule.

50. The Acts mentioned in the third Schedule to this Act are hereby repealed to the extent therein mentioned, except so far as they relate to any securities granted, and the application of any money raised before the passing of this Act, and to the rates and moneys for payment of such securities while they remain undischarged.

Provided that this repeal shall not affect anything already done or suffered, or any right already acquired or accrued under such enactments, or any rate or assessment already made or precept already issued, or any remedy or proceeding in respect of such thing, right, rate, assessment, or precept.

SCHEDULES.

First Schedule.

Acts authorizing Loans.

Date.	Title.
Part I.—General Improvement Acts.	
18 & 19 Vict. c. 120. -	The Metropolis Management Act, 1855.
19 & 20 Vict. c. 112. -	The Metropolis Management Amendment Act, 1856.
25 & 26 Vict. c. 102. -	The Metropolis Management Amendment Act, 1862.
20 & 21 Vict. c. cxv. -	Covent Garden Approach and Southwark and Westminster Communication Act, 1857.
20 & 21 Vict. c. cl. -	The Finsbury Park Act, 1857.
21 & 22 Vict. c. xxxviii	Victoria Park Approach Act, 1858.
27 & 28 Vict. c. iv. -	The Southwark Park Act, 1864.
28 & 29 Vict. c. iii. -	Whitechapel and Holborn Improvement Act, 1865.
29 & 30 Vict. c. cl. -	Kensington Improvement Act, 1866.
31 & 32 Vict. c. vii. -	Marylebone (Stingo Lane) Improvement Act, 1868.

Date.	Title.
	Part II.—Main Drainage Acts.
21 & 22 Vict. c. 104. -	The Metropolis Management Amendment Act, 1858.
26 & 27 Vict. c. 68. -	The Metropolitan Main Drainage Extension Act, 1863.
28 & 29 Vict. c. 19. -	An Act to extend the period for borrowing the sum authorized to be raised under the Metropolitan Main Drainage Extension Act, 1863.
	Part III.—Fire Brigade Act.
28 & 29 Vict. c. 190. -	The Metropolitan Fire Brigade Act, 1865.
	Part IV.—Embankment Acts.
25 & 26 Vict. c. 93. -	The Thames Embankment Act, 1862.
26 & 27 Vict. c. 45. -	The Metropolis Improvement Act, 1863.
26 & 27 Vict. c. 75. -	The Thames Embankment Act, 1863.
27 & 28 Vict. c. cxxxv.	Thames Embankment Amendment Act, 1864.
27 & 28 Vict. c. 61. -	The Thames Embankment and Metropolis Improvement (Loans) Act, 1864.
31 & 32 Vict. c. 43. -	The Thames Embankment and Metropolis Improvement (Loans) Act, 1868.
31 & 32 Vict. c. cxi. -	The Thames Embankment (North and South) Act, 1868.
31 & 32 Vict. c. cxxxv.	The Thames Embankment (Chelsea) Act, 1868.
32 & 33 Vict. c. cxxxiv.	The Park Lane Improvement Act, 1869.

Second Schedule.

Forms of Transfer.

I, *A. B.*, of , in consideration of the sum of pounds paid to me by *C. D.*, of , do hereby transfer to the said *C. D.*, his executors, administrators, and assigns, the sum of £ Metropolitan Consolidated Stock [*or* annuities], standing in my name in the books kept of such stock [*or*

annuities], and all my property, right, and interest in and to the same and the dividends thereon [*or* the instalments thereof].

In witness whereof, I have hereunto set my hand this day of one thousand eight hundred and

A. B. (L.S.)

I, *C. D.*, do hereby accept the above-named sum of £ stock [*or* annuities], and will hold the same subject to the same conditions on which the said transferor held the same.

In witness whereof, I have hereunto set my hand this day of one thousand eight hundred and

C. D. (L.S.)

THIRD SCHEDULE.

Enactments Repealed.

Date.	Title.	Extent of Repeal.
18 & 19 Vict. c. 120.	"An Act for the better Local Management of the Metropolis."	So much of section one hundred and thirty-five of the Metropolis Management Act, 1855, as provides that the sewers and works therein mentioned shall be completed on or before the 31st of December, 1860; so much of section one hundred and eighty-three as relates to the mode of borrowing by the Metropolitan Board of Works, and sections one hundred and eighty-four to one hundred and ninety-one, both inclusive, so far as regards the Metropolitan Board of Works.

Date.	Title.	Extent of Repeal.
20 & 21 Vict. c. cxv.	"Covent Garden Approach and Southwark and Westminster Communication Act, 1857."	Section forty-five from "and for securing" to end of section, and sections forty-six to fifty-three, both inclusive, and section fifty-six.
20 & 21 Vict. c. cl.	"The Finsbury Park Act, 1857."	Section thirty-six from "and for securing" to end of section, and sections thirty-seven to forty-four, both inclusive.
21 & 22 Vict. c. 104.	"An Act to alter and amend the Metropolis Local Management Act (1855), and to extend the powers of the Metropolitan Board of Works for the Purification of the Thames and the Main Drainage of the Metropolis."	Sections four to seven, and ten to twenty-two, all inclusive, and section twenty-six.
21 & 22 Vict. c. xxxviii.	"Victoria Park Approach Act, 1858."	Section thirty-eight from "and for securing" to end of section, and sections thirty-nine to forty-four, both inclusive, and section forty-seven.
25 & 26 Vict. c. 93.	"An Act for embanking the North Side of the River Thames from Westminster Bridge to Blackfriars Bridge, and for making new streets in and near thereto."	Section thirty-seven, and sections forty-two to forty-six, both inclusive.
25 & 26 Vict. c. 102.	"An Act to amend the Metropolis Local Management Acts."	Sections nineteen and twenty, so far as regards the Metropolitan Board of Works, and section twenty-six.
26 & 27 Vict. c. 45.	"An Act for making a new street from	So much of section twenty as incorporates section

Date.	Title.	Extent of Repeal.
	Blackfriars to the Mansion House, in the City of London, in connexion with the Embankment of the River Thames on the northern side of that river, and for other purposes."	thirty-seven of the Thames Embankment Act, 1862; and sections twenty-two and twenty-three.
26 & 27 Vict. c. 68.	"An Act to extend the powers of the Act relating to the Main Drainage of the Metropolis."	The whole Act.
26 & 27 Vict. c. 75.	"An Act for the embankment of part of the River Thames on the south side thereof in the parish of Saint Mary, Lambeth, and for other purposes."	So much of section twenty-one as incorporates section thirty-seven of the Thames Embankment Act, 1862; sections twenty-six, twenty-seven, twenty-eight, and twenty-nine.
27 & 28 Vict. c. 61.	"An Act for empowering the Commissioners of the Treasury to guarantee, and the Commissioners for the reduction of the National Debt to advance, the sums authorized to be borrowed for the Embankment of the Thames and Improvement of the Metropolis, and for other purposes connected therewith."	The whole Act.
27 & 28 Vict. c. iv.	"The Southwark Park Act, 1864."	Section thirty-one from "and for securing" to end of section, and sections thirty-two to thirty-nine, both inclusive.

Date.	Title.	Extent of Repeal.
28 & 29 Vict. c. 19.	"An Act to extend the period for borrowing the sum authorized to be raised under the Metropolitan Main Drainage Extension Act, 1863."	The whole Act.
28 & 29 Vict. c. 90.	"An Act for the establishment of a Fire Brigade within the metropolis."	Sections nineteen, twenty, and twenty-one.
28 & 29 Vict. c. iii.	"Whitechapel and Holborn Improvement Act, 1865."	Section thirty-one from "and for securing" to end of section, and sections thirty-two to thirty-nine, both inclusive, and section forty-two.
29 & 30 Vict. c. cl.	"Kensington Improvement Act, 1866."	Section thirty from "and for securing" to end of section, and sections thirty-one to thirty-eight, both inclusive, and section forty-one.
31 & 32 Vict. c. 43.	"An Act for extending the provisions of the Thames Embankment and Metropolis Improvement (Loans) Act, 1864, and for amending the powers of the Metropolitan Board of Works in relation to loans under that Act."	The whole Act.
31 & 32 Vict. c. vii.	"Marylebone (Stingo Lane) Improvement Act, 1868."	Section nineteen from "and for securing" to end of section, and sections twenty to twenty-six, both inclusive, and section twenty-nine.
31 & 32 Vict. c. cxi.	"The Thames Embankment (North	So much of section eighteen as relates to the mode of

Date.	Title.	Extent of Repeal.
	and South) Act, 1868."	borrowing, and sections nineteen to twenty-two, both inclusive.
31 & 32 Vict. c. cxxxv.	"The Thames Embankment (Chelsea) Act, 1868."	So much of section twenty-eight as incorporates section thirty-seven of the Thames Embankment Act, 1862; so much of section twenty-nine as relates to the mode of borrowing, and sections thirty to thirty-two, both inclusive.
32 & 33 Vict. c. cxxxiv.	"The Park Lane Improvement Act, 1869."	So much of section twenty-five as relates to the mode of borrowing, and sections twenty-six to twenty-eight, both inclusive.

APPENDIX (3.)

THE LOCAL LOANS ACT, 1875.

38 & 39 VICT., c. 83.

An Act to amend the Law relating to Securities for Loans contracted by Local Authorities.

[13th August, 1875.]

WHEREAS it is expedient to amend the law relating to securities for loans contracted by local authorities:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

(1.) *Preliminary.*

Short title.

1. This Act may be cited for all purposes as "The Local Loans Act, 1875."

Limits of Act.

2. This Act shall not extend to Scotland or Ireland.

Commencement of Act.

3. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-six, which day is herein-after referred to as the commencement of this Act.

Definition of borrowing under Act.

4. A local authority[1] shall be deemed to borrow, subject[2] to the provisions of this Act, whenever it raises a loan by the issue

[1] For the definition of "local authority" see below, section 34.

[2] As regards the apparent intention of this Act, see above, pages 6 to 8. It seems a matter of some uncertainty whether the Act enables local authorities to raise loans under it for the purpose of borrowing moneys, which they are authorized to borrow under Acts of Parliament passed after the 13th of August, 1875 (the date of the passing of the Act), in cases where such power is not expressly given by such Acts. There is nothing in section 4 which would thus restrict the operation of the Act, but the wording of section 31, which enables any local authority to borrow in manner provided by the Act any loan which it is authorized to borrow, "notwithstanding any provision in any other Act of Parliament passed before the passing of this Act," seems to render it probable that the Act does not apply to loans raised in pursuance of borrowing powers conferred after it passed.

of debentures,[1] or debenture stock,[2] or annuity certificates, purporting to be created under its powers, or partly in one way and partly in another; subject to this proviso, that where a loan is directed to be raised by debentures or debenture stock, or annuity certificates, under this Act, the prescribed[3] mode only shall be adopted.

[1] With respect to the effect of the Married Women's Property Act, 1882, on debentures and debenture stock when held by a married woman, see sections 6 to 10 of that Act. Section 6 provides that all stock, debentures, or debenture stock, of any corporation or public body, which, at the commencement of the Act (*i.e.*, on the 1st of January, 1883), are standing in the name of any married woman, shall be deemed, unless and until the contrary is shown, to be the separate property of such married woman, and the fact that any such stock, debenture, or debenture stock, is standing in the sole name of a married woman, shall be sufficient *primâ facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorize and empower her to receive and transfer the same, and to receive the dividends and interest thereof, without the concurrence of her husband, and to indemnify the directors, managers, and trustees of every such corporation or public body in respect thereof. Section 7 provides that all stock, debentures, or debenture stock of any such corporation or public body, which, after the commencement of the Act, shall be placed, registered, or transferred, in or into, or made to stand in the sole name of any married woman, shall be deemed, unless and until the contrary is shown, to be her separate property. Section 8 renders the above provisions applicable so far as relates to the estate, right, title, or interest of the married woman to any stock, debentures, or debenture stock, of any corporation or public body, which, at the commencement of the Act, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered, or transferred to or into, or made to stand in the name of any married woman, jointly with any persons or person other than her husband. Section 9 provides that it shall not be necessary for the husband of any married woman in respect of her interest to join in the transfer of any stock, debentures, or debenture stock of any corporation or public body, which is, or shall at any time thereafter, be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons, not being her husband. Section 10 provides that if any investment in any stock, debentures, or debenture stock shall have been made by a married woman by means of the moneys of her husband, without his consent, the court may, upon application made under section 17 of the Act, order such investment and the dividends thereof to be transferred and paid to the husband, and nothing in the Act contained is to give validity, as against creditors of the husband to any gift by a husband to his wife, of any property, which, after such gift, continues or is in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband, made by or in the name of his wife, in fraud of his creditors, but any money so deposited or invested, may be followed as if the Act had not passed.

[2] The wording of this section and section 31 seems to indicate, that whether or not a local authority has power, independently of the Act, to issue debenture stock, it may do so under the Act, in cases where it may issue debentures or annuity certificates. This presumption is, however, negatived by the wording of section 6, which provides that a debenture stock may be created and issued *by a local authority having power to raise a loan or any part thereof by the issue of debenture stock*. The effect of these words seems to be to cut down the power, so that it applies only in cases where the local authority, independently of the Act, has the power to issue debenture stock.

[3] For the definition of "prescribed," see below, section 34.

(2.) *Debentures.*

Regulations as to debentures.

5. A debenture under this Act shall be an instrument taking effect as a deed, and charging the local rate[1] or property in such debenture specified, with payment, as in the debenture mentioned, of the principal sum and interest therein specified.

Where a debenture under this Act charges property other than the local rate, and it is intended that in default of payment of the principal sum due on such debenture, or of the interest thereon, the property is to be sold, a statement to that effect shall be inserted in the debenture.

The principal sum may be made payable to the bearer of the debenture, or to a person to be named therein, his executors, administrators, or assigns.

A debenture in which the principal sum is made payable to the bearer shall be transferable by delivery.

A debenture in which the principal sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal debenture, and shall be transferable by writing in manner directed by the local authority.

There may be attached to a debenture under this Act, or be thereafter issued in respect thereof, or partly in one way and partly in the other, coupons making the interest as therein mentioned payable to the bearer of each coupon, or to the person named in each coupon or his order, or the interest on a debenture may be made payable to the owner for the time being of such debenture, or may be otherwise made payable in such manner as in the said debenture mentioned.

A coupon making the interest therein mentioned payable to the person named therein or his order, is in this Act referred to as a coupon payable to order.

A debenture under this Act shall not be issued for a less sum than the prescribed sum, or, where no sum is prescribed, than twenty pounds.

(3.) *Debenture Stock.*

Regulations as to debenture stock.[2]

6. A debenture stock may be created and issued by a local authority having power[3] to raise a loan, or any part thereof by

[1] For the definition of "local rate," see below, section 34.

[2] As regards the effect of these words, see note 2 to section 4.

[3] As regards the composition for stamp duty on transfers of this stock, see section 53 of the Inland Revenue Act, 1880 (43 & 44 Vict., c. 20), which provides that where any debenture stock, corporation stock, municipal stock, or funded debt, by whatever name known, has been, or shall be, created and issued by the council of any city or municipal borough under

the issue of debenture stock. Such debenture stock shall be of a nominal amount, not exceeding the amount of money authorized to be raised by such stock,[1] and shall, unless otherwise provided by the conditions of issue, be redeemable at par, at the option of the local authority, at such times, and upon such conditions, as the local authority may declare at the time of the issue thereof.

The title of any person to any share in debenture stock shall be evidenced by the entry in the register, as in this Act mentioned, of the name of such person as owner of such share.

Debenture stock shall bear such rate of interest to be payable at such times as the local authority may declare at the [2]time of issue of the stock.

Debenture stock and the interest thereon shall be a charge on the local rate or property specified at the [2] time of the issue

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the provisions of the Local Loans Act, 1875, or any other Act, the council may, with the sanction of the Commissioners of Her Majesty's Treasury, agree with the commissioners for the payment to them, by way of composition for the stamp duty on transfers of such stock, of a sum calculated—(1.) at the rate of one shilling and threepence for every full sum of ten pounds, and the like for every fraction of ten pounds, of the nominal amount of such stock invested in the name of each and every stockholder at the date of the composition, with the addition (2.) when the period within which the stock is to be redeemed or paid off, or during which annual or other payments in respect of the redemption or payment off of the same are required to be made, exceeds sixty years, but does not exceed 100 years, from that date, of threepence for every such ten pounds or fraction of ten pounds; and (3.) if the said period exceeds 100 years, or no period is fixed for such redemption or payment off, or no such annual or other payments are required to be made, with the addition of the said sum of threepence, and a further sum of threepence for every such ten pounds or fraction of ten pounds. In consideration of such payment, transfers of the stock in respect of which such composition has been paid, will be exempt from stamp duty.

The provisions relating to composition contained in this section are substituted for any other enactments for a composition for the same duty, but will not be applicable where any composition has been actually paid previously to the passing of this Act, in respect of any stock then created and issued.

Where any such stock as is in this section mentioned, is issued in lieu of mortgages or debentures, on the issue of which stamp duty has been paid, the Commissioners of Her Majesty's Treasury may reduce the amount of composition, payable under this section, by the amount of the stamp duty so paid, or any part thereof.

[1] These words seem to contemplate that the special Act will authorize a prescribed amount of money to be raised by the issue of the stock. Assuming this to be the case, if the rate of interest offered is low, the stock may be issued below par, in which event the authority will be unable to borrow by this means the whole of the amount authorized to be raised by the stock; and if the whole of such amount is required, the authority may be put to some inconvenience.

[2] The words "at the time of the issue of the stock," which occur several times in this section, and in other parts of the Act, are ambiguous; what is apparently intended is, prior to the issue.

thereof, in the same manner as if it were a principal sum and interest charged thereon by deed.

Where debenture stock and the interest thereon is a charge on property other than the local rate, and it is intended that in default of the payment of the interest thereon, or for the purpose of raising the money required for the redemption of the stock, the property is to be sold, a declaration to that effect shall be made by the local authority at the time of the issue of the stock, and shall be deemed to form one of the conditions of such issue.

Debenture stock shall have all the incidents of personal estate, and shall, subject to the provisions of this Act, be transferable[1] by writing in manner directed by the local authority.

The interest on any share of debenture stock shall be recoverable by the owner of such share in the same manner in all respects as if such interest were an annuity of like amount secured to him by an annuity certificate under this Act.

The owner of any share in debenture stock shall not be entitled to require payment of the nominal amount of stock held by him, except at the time and upon the conditions declared by the local authority at the time of the issue of such stock.

The conditions of issue of debenture stock shall be declared by the local authority at the time of such issue, and a printed copy of such conditions shall be supplied to every owner of debenture stock requiring the same, and shall be entered in the register of such stock.

The local authority may, if it thinks fit, on the application of the owner of any share in debenture stock, grant to him a certificate of title to his share in such stock, or any part of such share, with coupons attached entitling the bearer of the coupons to the interest on the share or part of a share specified in such certificate.

A certificate of title to a share in debenture stock under this section (in this Act called a stock certificate[2] to bearer) shall

[1] It seems clear from the latter part of the section that it is only nominal debenture stock which is thus to be transferable.

[2] As regards the stamp duty payable on these certificates, see section 46 of the Customs and Inland Revenue Act, 1881 (44 Vict., c. 12), which provides that every stock certificate to bearer, which shall, after the passing of that Act, be issued under the provisions of the Local Authorities Loans Act, 1875, or of any other Act authorizing the creation of debenture stock,

entitle the bearer to the stock therein described, and to the interest thereon, and shall be transferable by delivery.

Any share in stock in respect of which a stock certificate to bearer has been issued, shall, so long as such certificate is outstanding, cease to be dealt with through the medium of the register.

Debenture stock, in respect of which a stock certificate to bearer has not been issued, is in this Act referred to as nominal debenture stock.

(4.) *Annuity Certificates.*

Regulations as to annuity certificates.

7. An annuity certificate under this Act shall be an instrument taking effect as a deed, and charging the local rate or property in such certificate specified with payment, as in the certificate mentioned, of the annual sum therein specified.

Where an annuity certificate under this Act charges property other than the local rate, and it is intended that in default of payment of the annual sum secured by such annuity certificate, or of some part thereof, the property is to be sold, a statement to that effect shall be inserted in the annuity certificate.

The annual sum may be made payable to the bearer of the certificate or to a person to be named therein, his executors, administrators or assigns.

An annuity certificate in which the annual sum is made payable to the bearer shall be transferable by delivery.

An annuity certificate in which the annual sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal annuity certificate, and shall be transferable by writing in manner directed by the local authority.

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county stock, corporation stock, municipal stock, or funded debt, by whatever name known, shall be charged with the stamp duty of seven shillings and sixpence, for every full sum of one hundred pounds, and also for any fraction less than one hundred pounds, or over and above one hundred pounds, or a multiple of one hundred pounds, of the nominal amount of the stock described in the certificate.

Where the holder of any stock certificate to bearer so issued has been entered on the register of the local authority as the owner of the share of stock described in the certificate, such certificate must be forthwith cancelled so as to be incapable of being reissued to any person.

The foregoing charge of stamp duty will not be applicable where a composition has been paid under the provisions of section fifty-three of the Inland Revenue Act, 1880, for the stamp duty on transfers of the stock described in the certificate.

Every person and body of persons, whether corporate or unincorporate, by whom a "stock certificate to bearer" is issued without being duly stamped will forfeit the sum of fifty pounds.

An annuity certificate under this Act shall not be issued for a less annual sum than the prescribed sum, or, where no sum is prescribed, than three pounds.

(5.) *Priority of Loans.*

Priority of loans.

8. All sums for the time being due *or authorized*[1] *to be raised* on or in respect of any securities issued in respect of the same loan by a local authority under this Act shall be paid without any preference the one over the other by reason of the priority of date of any of such securities.

Where more than one loan has been raised under this Act by the same local authority, the sums for the time being due *or authorized*[2] *to be raised* on or in respect of any securities issued in respect of each loan shall take priority according to the date of such loan.

Where any sum of money is authorized to be borrowed in manner provided by this Act, such sum may, unless it is otherwise prescribed, be raised under this Act as one loan or several loans, as may be deemed most convenient by the borrowing authority, so that the aggregate amount authorized to be borrowed be not exceeded.

The date of each loan shall, with a view to the priority of the loan and to the period within which such loan is to be charged, and for the other purposes of this Act, so far as relates to that period, be fixed by the local authority, and may be so fixed irrespectively of the dates of the particular securities issued in respect of such loan,[2] so that the period within which the loan is required to be discharged be not exceeded.

(6.) *Notice of Trusts.*

Notice of trust not receiveable.

9. No notice of any trust, expressed, implied, or constructive, shall be received by the local authority, or by any registrar, or officer of the local authority, in relation to any security issued by such authority under this Act.

Owners of securities not responsible for acts of local authority.

10. A person advancing any money to a local authority and receiving in consideration of such advance any security under

[1] It is not clear what is the meaning of the words "or authorized to be raised" in lines 1, 7 & 8 of this section, line 2 of section 11, and the second and third paragraphs of section 12.

[2] The date should be fixed before any securities are issued in respect of the loan. The date should not be unduly postponed or antedated. In the former case it might unduly defer the first payment into the sinking fund; and in the latter, very difficult questions might arise as to the priority of the securities.

this Act, shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(7.) *Remedy for Non-payment.*

Remedy by *mandamus* for non-payment of money.

11. The local authority shall pay or raise all sums for the time being due, *or authorized*[1] *to be raised*, on or in respect of any security issued by them under this Act, and if default is made in payment of any sum so due, such sum shall be deemed to be a speciality debt due to the person entitled thereto from the local authority, of such a nature, that a *mandamus* will be granted to enforce the payment thereof; and an action may be brought accordingly, in which a *mandamus* may be claimed.

Remedy by appointment of receiver for non-payment of money.

12. Where a local authority makes default for a period of twenty-one days in paying an amount of not less than five hundred pounds (whether in one sum or separate sums) for the time being due on or in respect of any security issued under this Act, the persons entitled to the said amount, or any of such persons, may, instead of or in addition to bringing an action or actions, apply to the county court for the appointment of a receiver, and any receiver so appointed (subject to any direction which may be given by the court) shall, from time to time, raise as herein-after mentioned, by or out of the local rate or property charged, sufficient money to pay the amount, the payment of which is so in default, and all sums due while he is receiver on or in respect of any such security, together with all costs, charges, and expenses incurred in or about the appointment of such receiver and the execution of his duties under this section, including a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the said payments.

Where the amount so due *or authorized*[1] *to be raised* is charged on the local rate, the receiver may raise the money he is authorized to raise under this section by means of the local rate, and for that purpose shall have the same power as the defaulting authority of levying the local rate, and the receiver shall have such access to and use of the documents of the defaulting authority relative to the local rate as he may require.

Where the amount so due *or authorized*[1] *to be raised* is charged

[1] See note 1, on section 8.

on any property, other than the local rate, the receiver may raise the sum which he is authorized to raise under this section by receipt of the rents and profits of the property, and if the security involves a power of sale, as in this Act mentioned, by sale of the property in such manner and subject to such conditions of sale and otherwise as the court may direct.

A county court may appoint a receiver under this section with respect to any local rate levied, or any property situate wholly or partly within the jurisdiction of such court, and may remove such receiver and appoint another in his stead, and so from time to time; and may make such orders and give such directions as to the powers and duties of the receiver, and otherwise as to the disposal of the moneys received by him, as may be thought fit for carrying this section into effect.

(8.) *Discharge of Loan.*

Loan borrowed to be discharged within prescribed period.

13. Every loan borrowed in manner provided by this Act shall be discharged within the prescribed period from the date thereof, and if no period is prescribed, within the period of twenty [1] years from the date thereof, which period of twenty years shall, for the purposes of this Act, be included under the term "prescribed period," and such discharge shall be secured by one [2] or more of the following methods; that is to say,

By the issue of annuity certificates limited to expire within the prescribed period; or,

By the issue of debentures made payable in such a manner that in each year such number of debentures will become due and be paid off as will secure the repayment of the whole sum secured by such debentures by equal annual instalments, extending over the whole of the prescribed period, or over a less time than the prescribed period; or,

By the annual appropriation, as in this Act mentioned, of a

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[1] This provision has been productive of much practical inconvenience. In a great number of cases no period is prescribed for the discharge of the loan by the special Act by which the powers of borrowing are conferred, but in lieu of a period being so prescribed the local authority are required to set aside every year a per centage, say 1 or 2 per cent. on the amount borrowed. In such a case, unless the authority are willing to repay the loan in twenty years, they cannot borrow under the Local Loans Act. See page 58, as to a corresponding defect in section 84 of the Commissioners Clauses Act, 1847.

[2] It will be observed that neither this section nor section 15 provides for the case of a loan, raised by the issue of securities under this Act, being repaid by means of reborrowing.

fixed sum to the discharge of a certain portion of such loan; or,

Where a sinking fund is prescribed,[1] but not otherwise, by the establishment of a sinking fund and the application thereof in manner in this Act mentioned.

Discharge of loan by appropriation of annual sum.

14. Where a fixed annual sum is appropriated to the discharge of a loan, or part of a loan, the local authority shall raise in every year[2] an equal sum of money of such amount as will, at or before the expiration of the prescribed period, pay off the whole of such loan or part of a loan, and the interest thereon. The local authority shall in each year pay out of such fixed sum the interest due on the loan or part of a loan during the current year, and appropriate the residue of such sum, in the case of money borrowed on debentures, to the payment off of a corresponding amount of the principal sum secured by such debentures, and in the case of money borrowed by the issue of debenture stock to the redemption of a corresponding amount of such stock.

The debentures or portion of debenture stock to be paid off in every year shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn in presence of the local authority, and any owners of debenture or debenture stock who choose to be present; the local authority shall cause not less than one month's previous notice of the time and place at which lots are to be drawn to be given by advertisement, published once at the least in each of four successive weeks in some newspaper circulating in the district within which the local authority has jurisdiction.

Any fractional sum remaining of such residue as aforesaid, after payment of the debentures or debenture stock, payable as aforesaid, shall be carried to the credit of the annual sum to be raised in the ensuing year. All expenses incurred by the local authority in respect of any drawings by lot or otherwise in respect of the discharge of a loan shall be paid out of the current revenue of the local authority.

Discharge of loan by sinking fund.

15. Where a sinking fund is prescribed for any loan or part

[1] Hence poor law authorities will not be authorized to secure the discharge of their loans under this Act by means of a sinking fund.

[2] As regards the defects of this clause, see pages 70 to 72.

of a loan, the local authority shall create a sinking fund as hereinafter mentioned; that is to say,

(1.) Such equal yearly or half-yearly sums shall be paid into the sinking fund in each year as, being accumulated at compound interest at the prescribed rate, or if no rate is prescribed,[1] at such rate as[2] in the opinion of the local authority (regard being had to the securities in which they are authorized to make investments), will at the expiration of some period not longer than the prescribed period, be sufficient, after payment of all expenses,[3] to discharge such loan, or part of a loan; and,

(2.) The first of such payments shall be made within one year from the date of the loan; and,

(3.) All sums paid into the sinking fund shall be, as soon as may be, invested by the local authority in the prescribed manner, and if no manner is prescribed, or if a manner having been prescribed, the Local Government Board shall assent, in securities[4] in which trustees are by law for the time being authorized to invest, or in debentures, debenture stock, or annuity[5] certificates issued under this Act, and any such investments, may be from time to time varied or transposed, and all dividends and other annual sums received in respect of such investments shall, as soon as may be after they are received, be paid into the sinking fund and invested by the local authority in like manner; and,

(4.) The local authority may, from time to time, apply the sinking fund, or any part thereof, in or towards the discharge of the loan or part of a loan for which it was created, and until such loan or part is wholly discharged shall not apply the same for any other purpose.

(5.) The debentures or portion of debenture stock, to the

[1] As regards the considerations which should guide the local authority in fixing this rate, see pages 64 to 66.

[2] This sentence is incomplete, the subsequent words "will at the expiration of some period" being dependent upon the preceding "as," and not upon this "as," which has no verb to follow it. Some such words as "may be determined by" are apparently required in place of the words "in the opinion of."

[3] An estimate must apparently be made of these expenses, whatever they may be.

[4] These securities are enumerated in note 1, on page 67.

[5] Annuity certificates will, as a general rule, be inconvenient investments for the sinking fund.

payment of which such sinking fund is for the time being applicable, shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged.[1] Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn, and notice shall be given in manner herein-before in this Act mentioned.

(6.) Any surplus of the sinking fund remaining after the discharge of the loan or part of a loan for the discharge of which it was created shall be paid into some other sinking fund under the control of the local authority, or if there is no such fund shall be applied to any purpose to which such loan is applicable, or otherwise, as the local authority may, with the assent of the Local Government Board, think expedient.

(7.) Where any part of the sinking fund is invested in any securities of the local authority, or is applied in paying off any part of the loan before the prescribed period, the interest which would otherwise be payable on such securities or on such part of the loan shall be paid into the sinking fund and invested in manner provided by this Act.

(8.) If the annual income of the sinking fund is not less than the annual interest payable on so much of the loan or part of the loan in respect of which it was created as remains undischarged, the equal annual sums required by this section to be paid into the sinking fund may cease to be so paid.

Annual return as to sinking fund.

16. Where a sinking fund is created for the purpose of discharging any loan or part of a loan, the local authority shall, until such loan or part of a loan is discharged, within twenty-one days after the expiration of each year, transmit to the Local Government Board a return in such form[2] and verified in such

[1] It is not clear what is intended by the words "or may thereafter have been arranged" in this and the preceding section. If no mode of ascertaining the debenture and stock to be repaid and redeemed has been determined prior to the issue of the securities, and the debentures and stock are not to be repaid or redeemed compulsorily, why should the authority be under any restrictions in their choice of the stock and debentures to be redeemed and repaid? If they ought to be under any restrictions, the words in the Act are at present so vague that it is difficult to see what restriction, if any, is intended to be imposed by them.

[2] The form of return which has been prescribed by the Local Government Board under this section, will be found in Appendix (5).

manner as the Board from time to time directs, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period, and the total amount (if any) remaining invested at the end of the year. If it appears to the Local Government Board by such return or otherwise, that the local authority have failed to comply with the provisions of this Act, with respect to the sinking fund, that board may, if they think fit, and after hearing the local authority, if desirous to be heard, by order direct that the sum in respect of which default has been made, is to be raised, and invested or applied as part of the sinking fund, and any such order may be enforced by *mandamus*.

Supplemental Provisions.

(1.) *As to Coupons.*

Temporary issue of coupons.

17. Coupons in respect of any debenture or stock certificate to bearer under this Act, may be issued, comprising the interest payable during the whole period of years for which the debenture or stock certificate is in force, or any less period, and at the expiration of any such less period, fresh coupons may be issued in respect of the debenture or stock certificate, or such debenture or stock certificate may be exchanged for another debenture or stock certificate, with coupons for a further period.

Endorsement and crossing of coupons.

18. A coupon[1] payable to order, which, when presented for payment, purports to be endorsed by the person named therein, shall be a sufficient authority to the person paying the money to pay the amount due in respect of such coupon, to the bearer thereof, and it shall not be incumbent on the person paying such coupon, to prove that such endorsement, or any subsequent endorsement, was made by or under the direction or authority

[1] There is this inconvenience in having coupons payable to order attached to debentures, that it becomes necessary for the person named therein to endorse all the coupons attached to his debenture on the occasion of his transfer of the debenture, after which they become practically coupons payable to bearer. It would probably be convenient for the coupon to be in the form of a receipt, which might be signed by the holder of the debenture for the time being, whose name would appear in the register. But this form of coupon is not apparently contemplated by the Act. See also section 5.

of the person who is named in the coupon, or to whom the coupon was made payable by any endorser.

Where a coupon bears across its face an addition in written, printed, or stamped letters of the name of any banker, or of the words "and company," in full or abbreviated, between two transverse lines, such addition shall be deemed to be a material part of the coupon, and have the force of a direction to the person by whom such coupon is to be paid, that the same is to be paid only to or through the banker named, or if none is so named, to or through some banker, and the same shall be payable only to or through the banker named or some banker.

Coupons issued in respect of a security are exempt from stamp duty as if attached thereto.

19. Any coupons issued in respect of any debenture or stock certificate to bearer, under this Act, shall, for the purpose of the Acts relating to stamp duties, be deemed to have been attached to and issued with such security.

(2.) *As to Stock Certificates.*

Conversion into nominal debenture stock of stock in certificate to bearer.

20. The bearer of a stock certificate to bearer may, on delivery to the local authority of his certificate, and of all unpaid coupons belonging thereto, require the local authority to enter him in the register of the local authority, as an owner of the share of stock described in the stock certificate to bearer, and thereupon that stock shall become nominal debenture stock, and the interest thereon shall be payable as if no stock certificate to bearer had been issued in respect of that share of stock.

Trustee not to apply for stock certificate to bearer.

21. A trustée of debenture stock shall not apply for or hold a stock certificate to bearer, unless authorized to do so by the terms of his trust, and any contravention of this provision by a trustee shall be deemed a breach of trust. But this provision shall not impose on the local authority an obligation to enquire whether a person applying for a stock certificate to bearer is or is not a trustee, or subject the local authority to any liability in the event of their issuing a stock certificate to bearer to a trustee, or invalidate any stock certificate to bearer issued.

(3.) *As to Execution and Supply of Securities.*

Execution and supply of securities.

22. Every debenture, stock certificate to bearer, and annuity certificate under this Act shall be deemed to be well executed [1]

[1] Presumably this provision will not make securities valid, to which, the seal of the authority has been affixed without the knowledge of the authority.

if under the common seal of the local authority, where that authority is a body corporate, and if signed by two or more members of the local authority, where the local authority is not a body corporate, or if otherwise executed, in such manner as the Local Government Board may direct, on the application of any local authority, whether corporate or unincorporate.

The Commissioners of Inland Revenue may, when required by any local authority, and on payment of such sum as may, with the sanction of the Treasury, be agreed upon, supply such authority with debentures, stock certificates to bearer, coupons, and annuity certificates under this Act, in such form, and of such materials as the local authority may direct.

(4.) *As to Register of Nominal Securities.*

Register of nominal securities.

23. A local authority issuing nominal debentures, nominal debenture stock, or nominal annuity certificates under this Act, shall cause a register of such securities to be kept in one or more book or books, and there shall be entered in such register—

(1.) The names and addresses and the descriptions of the owners[1] for the time being of every such security, with a statement of the securities held by each person registered and

(2.) The date at which the name of any person was entered in the register in respect of any such security.

The register under this section shall be evidence of any matters by this Act directed or authorized to be inserted therein.

Inspection of register.

24. Any person may inspect the register at any reasonable time, upon payment of such fee, not exceeding one shilling, as may be fixed by the local authority, and shall be entitled to obtain from the registrar, copies or extracts certified by him to be true copies or extracts of such register, upon payment of such fee not exceeding two shillings and sixpence, and twopence for every folio of seventy-two words, as the local authority may from time to time fix, and any copy or extract so certified shall be admissible in evidence.

Rectification of register.

25. If the name of any person is, without sufficient cause, entered in or omitted from the register, or if default is made, or unnecessary delay takes place in making any entry in such

[1] As to the right of a married woman to be entered on the register, see note 2 to section 4.

register, the person aggrieved, or the local authority may apply, to the court for an order that the register may be rectified.

The court may either refuse the application, with or without costs, to be paid by the applicant, or may, if satisfied of the justice of the case, whether there has or has not been any default on the part of the registrar, make an order for the rectification of the register, and make such order as to the payment of the costs of the application, or of damages to the person aggrieved as to the court may seem just.

The court may, in any proceeding under this section, decide any question relating to the title of any party to such proceeding to have his name entered in or omitted from the register, and generally any question which it may be necessary or expedient to decide for the rectification of the register.

The court, for the purposes of this section, means any of Her Majesty's superior courts of law or equity, or any court to which the jurisdiction of such courts may be transferred, and where the value of any security or securities to which the application relates does not exceed fifty pounds, shall include a county court, and the jurisdiction by this Act given to a superior court may be exercised in a summary manner by any judge or judges of such court sitting in chambers or otherwise.

(5.) *As to Loans under Official Sanction.*

26. Any local authority about to raise a loan by the issue of any securities under this Act, may apply to the Local Government Board, to authorize the issue of such securities under official sanction. Permissive issue of securities under official sanction.[1]

The Local Government Board, before granting their official sanction to such issue, shall require the local authority to furnish in such form, and with such particulars, and supported by such evidence as the Local Government Board may require, such returns of the financial condition of such authority and borrowing powers of such authority, and of the indebtedness of such authority, whether incurred before or after the passing of this Act, and such other particulars as will enable the Local Government Board to ascertain the facts required by this section to be stated in relation to such issue, and the Local Government Board may make such examination or enquiries for ascertaining

[1] As to the extent to which advantage has been taken of this section, see page 7.

the said matters, and the accuracy of such returns, as they may think expedient, and they shall not give their sanction unless they are satisfied with the information given and the result of the enquiries made.

The issue of any securities under official sanction shall be authenticated by an official stamp on such securities, or otherwise as the Local Government Board may from time to time direct.

The sanction of the Local Government Board given in respect of any securities shall be conclusive evidence that the local authority, by whom such securities may be issued, had power to issue the same, and that the same have been duly issued, and are, as to form and otherwise, in conformity with this Act.

The owner of any security issued under official sanction shall, on request made by him to the Local Government Board, be furnished with a statement of the following particulars; that is to say,

Where a security is charged on a rate, of the rateable value, at the date of the issue of such security, of the property subject to the rate, and where the security is a charge on property, of the estimated value of such property; also of

The relative priority of the loan, in respect of which such security is issued, and of the other loans (if any) of the borrowing authority;

and such statement shall be evidence of the particulars therein stated.

(6.) *As to Investments on Loans under Act.*

Power for trustees to invest in loans under Act.

27. Any trustees or other persons for the time being authorized or directed to invest any moneys in the debentures or debenture stock of any railway or other company shall, unless the contrary is provided by the instrument authorizing or directing such investment, have the same power of investing such moneys in any nominal debentures or nominal debenture stock issued under this Act as they have of investing such moneys in debentures or debenture stock of any railway or other company as aforesaid.

Power for Public Works Loan Commissioners to take securities under Act.

28. When the Public Works Loan Commissioners are authorized to grant any loan to a local authority under any Act, passed either before or after the passing of this Act, and are satisfied with the sufficiency of the rates or other property on

which such loan is charged to defray the loan, they may, notwithstanding anything contained in any other Act of Parliament, take debentures, debenture stock, or annuity certificates under this Act as a security for such loan.

(7.) *As to General Rules.*

Application of rules in Schedule.

29. The general rules in the Schedule to this Act with respect to the transfer and transmission of nominal securities shall have the same force as if they were enacted in the body of this Act.

Power to make general rules.

30. The local authority may, from time to time, with the consent of the Local Government Board, make, and when made, add to, rescind, or alter, such rules as they think fit with respect to the following matters:

(1.) The issue of coupons, the registry of securities, the mode of transferring securities not transferable by delivery, the fees, if any, to be charged in respect of registry and otherwise in respect of any security issued by them under this Act; and,

(2.) With respect to any matter or thing required for the purposes of carrying into effect this Act, and not inconsistent therewith.

The local authority may also by such rules as aforesaid add to, rescind, or alter any of the rules in the Schedule hereto.

Any general rules made by the local authority in pursuance of this section shall, so far as they are consistent with this Act, have the same force as if they were enacted therein.

Provided, that any rules made, added to, rescinded, or altered in pursuance of this section shall not affect[1] any securities issued in respect of any loan, the date of which is prior to the date of such making, addition, rescission, or alteration.

(8.) *As to Borrowing.*

Borrowing and reborrowing by local authorities.

31. Any local authority, notwithstanding any provision in any other Act of Parliament passed before the passing of this Act, may, if it thinks fit, borrow in manner provided by this Act any loan which it is authorized to borrow.

[1] It is not altogether clear what is the meaning of the words "affect any securities." It would seem that they prevent the rules from providing for the issue of coupons in respect of securities issued prior to the making, &c., of the rules, the registry of such securities, the mode of transferring them, the fees to be charged in respect of their registry, &c. It may, however, be contended that they merely mean that such rules shall not affect the validity of such securities.

Any local authority may, from time to time, in like manner, reborrow[1] money for the purpose of discharging any loan lawfully contracted by them either before or after the passing of this Act; provided that the time for repayment of any money so borrowed shall not be extended beyond the unexpired portion of the term for which the original loan was contracted, unless with the sanction of the Local Government Board, and in no case shall be extended beyond the prescribed period.

(9.) *As to Forgery and Loss of Securities.*

Forgery of securities.

32. For the purposes of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, intituled "An Act to consolidate and amend the Statute Law of England relating to indictable offences by forgery," debenture stock under this Act shall be deemed to be capital stock of a body corporate, and any other security issued in pursuance of this Act shall be considered to be a writing obligatory, and any coupon bearing across its face an addition in written, printed, or stamped letters of the name

[1] It is doubtful whether this section will empower a local authority to reborrow money which has been borrowed in manner provided by this Act. See page 26. The following provision, taken from the Derby Corporation Act, 1882, section 123, shows the sort of clause which is required in order to confer this power satisfactorily:

"The corporation for the purpose of paying off any money borrowed or raised by them by the issue of debentures, debenture stock, or annuity certificates, under and subject to the provisions of the Local Loans Act, 1875, may, from time to time, during the period prescribed by this Act, for the repayment of the moneys so borrowed, reborrow such amounts as they may require by the issue of debentures, debenture stock, or annuity certificates under and subject to the provisions of the Local Loans Act, 1875, or by any two or more of such methods. Provided that all moneys so reborrowed shall be repaid within the period prescribed for the repayment of the moneys, in lieu of which such reborrowing has been made, and that the moneys originally borrowed, and any amounts, from time to time, reborrowed under the foregoing provisions for the repayment of such moneys, shall, for the purposes of sections 14 and 15 of the Local Loans Act, 1875, be deemed to form the same loan, and the obligations of the corporation with respect to the sinking fund to be set aside for repayment of such moneys, and, save as hereinafter provided, with respect to the appropriation and application of a fixed annual sum for the repayment of such moneys, shall not be in any way affected by reason of such reborrowing. If the corporation elect to pay off any moneys borrowed by them under this part of this Act, by the appropriation of an annual sum as provided by section 14 of the Local Loans Act, 1875; and any moneys in respect of which the annual sum is appropriated, are paid off by means of moneys reborrowed at a different rate of interest than that payable on the moneys paid off by means of such reborrowing, the annual sum shall be reduced, or, as the case may be, increased by the subtraction therefrom, or addition thereto, of a sum equivalent to the decrease or increase of the interest payable by the corporation in consequence."

of any banker, or of the words "and company" in full or abbreviated, between two transverse lines, shall be deemed to be a cheque or draft on a banker.

33. If any security issued under this Act is lost, mislaid, or destroyed, the local authority shall, on such indemnity being given as they may require, and on payment of the expense of the issue, issue a fresh security in the place of the security so lost, mislaid, or destroyed. Loss of securities.

(10.) *Definitions.*

34. For the purposes of this Act— Definitions.

"Prescribed" means prescribed by any Act passed either before or after the passing of this Act authorizing a local authority to borrow money:

"Local authority" means the justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority.

"Municipal borough" means any borough for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of municipal corporations in England and Wales," and any Acts amending the same:

A "rate" means a rate, the proceeds of which are applicable to public local purposes, and leviable on the basis of an assessment in respect of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some authority or officer, is, or can be ultimately raised out of a rate, and the levy of a rate includes the issue and enforcement of any such precept, certificate, or document as aforesaid, and expressions relating to the levy and the assessment and making of a rate shall be construed accordingly:

"Local rate" means any rate as before defined which a local authority have power to levy or charge by way of mortgage or otherwise:

"Security" means any debenture, debenture stock, annuity certificate, coupon, or stock certificate to bearer issued under this Act:

"Person" includes a body of persons corporate or unincorporate:

"Executors and administrators" includes successors.

(11.) *Repeal and consequential Enactment.*

Repeal of 36 & 37 Vict., c. 35.

35. The County Debentures Act, 1873, is hereby repealed, as from the commencement of this Act; but this repeal shall not abridge or prejudicially affect the incorporation of any county authority under that Act, or any right in respect of any debenture issued in pursuance of that Act before the commencement of this Act, or any remedy for non-payment of moneys secured by any such debenture, and all such rights and remedies may be enforced as if this Act had not been passed.

Incorporation of county authority for purposes of Act.

36. The justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled issuing any securities under this Act, shall, so far as relates to such securities, be deemed to be incorporated by the name of the justices of the county, liberty, riding, parts, or division of the county to which they belong, or by any other name by which such justices are ordinarily known, or by which they granted the said securities, and may sue and be sued in any action or other legal proceeding relating thereto by such corporate name.

SCHEDULE.

General Rules.

Transfer of Nominal Securities.

(1.) A number of persons, not exceeding such number as may from time to time be directed[1] by the local authority, may be registered as joint owners of the same nominal security, with right of survivorship between them.

(2.) Unless otherwise directed by a general rule of the local authority, the instrument of transfer of any nominal security issued by a local authority, shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain owner of such security, until the name of the transferee is entered in the register in respect thereof.

[1] In what manner must this direction be made? The better plan will apparently be to provide for it by a rule under section 30, before the securities are issued.

(3.) The transfer books of nominal securities may be closed at such times, not exceeding twice in each year, and not exceeding fourteen days at each time of closing, as the local authority may direct.

Transmission of Nominal Securities.

(4.) The executors or administrators of a deceased owner of a nominal security shall be the only persons recognized by the local authority as having any title to such security.

(5.) Any person becoming entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage [1] of any female owner, may be registered as owner upon such evidence being produced as may, from time to time, be required by the local authority.

(6.) Unless otherwise directed by a rule of the local authority, any person who has become entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such security.

(7.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such security.

(8.) The instrument of transfer shall be presented to the local authority, accompanied with such evidence as the local authority may require to prove the title of the transferor, and thereupon the local authority shall register the transferee as owner.

(9.) In the construction of this schedule the term "nominal security," means any nominal debenture, nominal debenture stock, or nominal annuity certificate.

[1] As to the right of a married woman to hold debentures or debenture stock, see note 2 to section 4.

APPENDIX (4.)

PROVISIONS IN THE DERBY CORPORATION ACT, 1882 (45 & 46 VICT., C. CCXLV.), RELATING TO CORPORATION STOCK.

Preliminary.

Interpretation. 68. In this Part of this Act—

(1.) Any power, whether or not coupled with a duty of borrowing, or continuing on loan or reborrowing money, or of redeeming or paying off or creating or continuing payment of or in respect of any annuity, rent-charge, rent, or other security representing or granted in lieu of consideration money for the time being existing under this Act, or under any Act of Parliament, public or local, passed or to be passed, or under any Provisional Order confirmed by Act of Parliament, passed or to be passed, or under any order or sanction of any government department, made or given or to be made or given by authority of any Act of Parliament, passed or to be passed, is, for purposes for this part of this Act, a statutory borrowing power.

(2.) Any security in which trustees are for the time being by or under any Act of Parliament, passed or to be passed, authorized to invest trust money,[1] and any mortgage, bond, debenture, debenture stock, corporation stock, annuity, rent-charge, rent, or other security authorized by or under any Act of Parliament, passed or to be passed, of any municipal corporation, including the corporation of any other local authority within section thirty-four of the Local Loans Act, 1875, is, for purposes of this part of this Act, a statutory security.

(3.) The provisions of this part of this Act referring to interest, apply to and include instalments of an annuity and

[1] As to these securities, see above, page 67.

half-yearly or other payments of or in respect of a rent-charge, rent, or other statutory security.

Creation and Charge of Stock.

Creation of corporation stock.

69 (1). Where the corporation have for the time being any statutory[1] borrowing power, then subject and according to the provisions of this part of this Act, the corporation may, from time to time, by resolution of the council, exercise the power by creation of stock either redeemable *or irredeemable*,[2] to be from time to time issued for such amount[3] within the limit of the power at such price to bear such half-yearly or other dividends, and to be so transferable, that is to say, in books or by deed as the corporation by the resolution direct. Provided that all redeemable stock at any time, and from time to time so created, shall be created on and subject to such terms and conditions as the same shall form one and the same class of stock, and that all irredeemable stock at any time, and from time to time so created, shall be created on and subject to such terms and conditions as that the same shall form one and the same class of stock.

(2.) All stock both redeemable and irredeemable at any time, and from time to time so created, shall rank equally without any priority or preference by reason of any precedence in the date of any statutory[4] borrowing power, or in the date of creation of any portion of stock, or in the date of issue of any portion of stock, or on any other ground whatsoever.

(3.) Redeemable stock shall be redeemable by the corporation at par, that is to say, at the rate of one hundred pounds sterling for every nominal amount of one hundred pounds stock issued at such time and in such manner as the corporation, by the resolution for the first creation of stock, shall declare.

(4.) Irredeemable stock shall not be redeemable except by agreement between the corporation and the holder of stock.

(5.) Each resolution for creation of stock shall specify whether the stock thereby created is redeemable or irredeemable.

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[1] See sub-section (1) of the preceding section.

[2] As to the considerations which should guide local authorities in determining whether their stock shall be redeemable or irredeemable, see above, pages 249 to 256.

[3] As to the effect, which the creation of the stock will have on the borrowing powers of the local authority, see section 84.

[4] See sub-section (1) of section 68.

(6.) Stock so created shall be designated by the corporation as Derby Corporation Redeemable Stock, or as Derby Corporation Irredeemable Stock (as the case may require).

(7.) All stock, for the time being so created, whether redeemable or irredeemable, is comprised in the term corporation stock, when hereafter used in this part of this Act, except where either redeemable stock or irredeemable stock is separately mentioned.

Borrowing power to be exerciseable for actual sum raiseable.

70. Each statutory[1] borrowing power of the corporation shall be construed to authorize the corporation to create and issue corporation stock, from time to time, to such nominal amounts as in the aggregate will, according to the price of issue, produce the actual amount of money for the time being, lawfully raiseable by the corporation under that power, or some portion of that actual amount, or (as the case may be) the actual amount of money properly payable by the corporation as consideration in payment off or redemption by the corporation of any mortgage, bond, debenture, debenture stock, annuity, rent-charge, rent, or other statutory[2] security granted by the corporation.

Charge of corporation stock.

71 (1). All corporation stock for the time being issued, and the dividends thereon, shall be, and the same are, by virtue of this Act, charged indifferently on the whole revenues of the corporation, from time to time arising from the lands, undertakings, and other property for the time being of the corporation, and on the borough fund and borough rate, and on the district fund[3] and general district rate, and on all other funds and rates[3] established and leviable by the corporation, as a municipal body, for municipal purposes, or as a sanitary authority for sanitary purposes.

(2.) The dividends for the time being payable on all corporation stock shall (subject to all charges existing at the date of the first issue of any corporation stock) be the first charge on the revenues and rates aforesaid, and on the revenues of the funds aforesaid, all which revenues and rates are comprised in the term, the corporation revenues, when hereafter used in this part of this Act.

[1] See sub-section (1) of section 68.

[2] See sub-section (2) of section 68.

[3] Section 4 of the Act provides that the district fund and general district rate, mean respectively the district fund and general district rate of the district of the corporation, acting by the council as a sanitary authority, and that rate includes water rents, and charges for supply of water or of meters.

Loans Fund.

72. For payment of dividends on all corporation stock, and for redemption and extinction, or purchase and extinction, of all corporation stock, there shall be established and formed a fund, called the Derby Corporation Consolidated Loans Fund (in this part of this Act referred to as the Loans Fund). Establishment of consolidated loans fund.

73 (1). In each year the corporation shall pay into the loans fund, a sum or sums equal to the aggregate amount of all dividends payable in that year, on the several portions of corporation stock issued in exercise of the respective statutory[1] borrowing powers of the corporation, and remaining outstanding. Contributions to loans fund for dividends.

(2.) They shall provide the sum or sums aforesaid by contributions from the several corporation revenues, if any specifically made liable, to provide the same by or under any Act of Parliament, or by any resolution of the corporation, having reference to those respective statutory [1] borrowing powers, and if, as regards any statutory borrowing powers, there is no such specific liability, then from the several corporation revenues out of which interest would have been payable, on money borrowed by the corporation under that power, if that money had been raised, and remained secured otherwise than by corporation stock, and in default thereof, or subject thereto, they shall provide the same out of the borough fund and borough rate, or out of the district fund and general district rate, as the corporation, having regard to the provisions of this part of this Act, and to the objects for which the statutory [1] borrowing power was exercised, may consider equitable.

(3.) The amounts of those several contributions (subject [2] to any payment in reduction thereof authorized by this part of this Act), shall be the sums ascertained to be required in that behalf, by apportionment of that aggregate amount of dividends among those several corporation revenues, according to the amount of stock, the dividends whereon are properly payable thereout respectively.

74 (1). In each year the corporation shall pay into the loans fund, a sum or sums equal to the aggregate amount of all sums payable in that year, for redemption and extinction, or purchase and extinction, of the several portions of corporation stock Contributions to loans fund for extinction of stock.

[1] See sub-section (1) of section 68.

[2] See sub-section (3) of section 81.

issued in exercise of the respective statutory[1] borrowing powers of the corporation, and remaining outstanding.

(2.) They shall provide the sum or sums last aforesaid, by contributions from the several corporation revenues,[2] if any specifically made liable, to provide the same by or under any Act of Parliament, or by any resolution of the corporation, having reference to those respective statutory[1] borrowing powers, and if, as regards any statutory borrowing power, there is no such specific liability, then from the several corporation revenues, out of which any yearly or other sums would have been payable towards a sinking fund for discharge, or towards payment off by instalments, appropriations, annual repayments, or otherwise, of money borrowed by the corporation under that power, if that money had been raised, and remained secured, otherwise than by corporation stock, and in default thereof, or subject thereto, out of the borough fund and borough rate, or out of the district fund and general district rate, as the corporation, having regard to the provisions of this part of this Act, and the objects for which the statutory borrowing power was exercised, may consider equitable.

(3.) The amounts of those several contributions (subject[3] to any payment in reduction thereof authorized by this part of this Act) shall be the same amounts[4] as would in the same respective cases have been payable towards a sinking fund, or towards payment off as aforesaid, those contributions to be subject to accumulation if and as in the same respective cases accumulation was prescribed.[5]

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[1] See sub-section (1) of section 68.

[2] See sub-section (2) of section 71.

[3] As to these reductions, see section 81.

[4] In the case of irredeemable stock, the Local Government Board may, in certain contingencies, require these amounts to be increased. See section 78 (5).

[5] It will be observed that the issue of the stock in this case will not affect the amounts which the ratepayers will be called upon to pay annually towards the liquidation of their loans. In some cases, however, in consequence of the complexity of the existing provisions of the statutes which regulate the sinking funds of the local authority, it is desirable to simplify the obligations of the local authority in this respect, by some such provisions as the following, which are taken from the Wolverhampton Corporation Loans Act, 1882 (45 & 46 Vict., c. ccxl., s. 9 (3)).

"The amounts of those several contributions (subject to any payment in reduction thereof authorized by this Act) shall be such amounts as, with accumulations at the rate of three pounds ten shillings per centum per annum, shall be from time to time calculated to be sufficient to purchase at

(4.) The corporation shall, from time to time, by investment on statutory securities of the sums paid into the loans fund in respect of those several contributions or of proper parts thereof, and by like investment of the interest and annual proceeds arising from those securities, make and maintain such accumulations as are in this section referred to.

(5.) But if the extinction of any portion of corporation stock, or any part thereof, is accelerated by the application to such extinction of any part of the loans fund required by this Act to be applied to the making and maintenance of those accumulations, then a sum or sums equal to the dividends on the stock so extinguished shall thenceforth, in every year, during the residue of the period expressly or by implication limited for the continuance of any loan by or under the statutory borrowing power, in exercise whereof that portion of stock is issued, be paid into the loans funds out of the corporation revenues chargeable with payment of the dividends on that portion of stock.

Raising of contributions to loans fund.

75 (1). The corporation shall, from time to time, in order to raise the amount of the several contributions of the two kinds aforesaid out of the several corporation revenues, do all such acts, exercise all such powers, collect all such money, and make and levy all such rates as they lawfully can, or ought to do, exercise, collect, make and levy for the purposes of or in relation to the respective statutory borrowing powers, in exercise whereof the several portions of corporation stock are issued.

(2.) If by reason of any limit of a rate, or for any other reason there is a deficiency on any corporation revenue in respect of any required contribution, the corporation shall advance the amount of the deficiency out of the borough fund and borough rate, or district fund and general district rate, as the corporation, having regard to the provisions of this part of this

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its nominal amount the portion of stock towards the extinction whereof those contributions are payable within the periods following, that is to say:—

(*a*) In the case of stock issued for the purpose of paying off, or converting any of the loans mentioned in Part I. of the first Schedule to this Act, within fifty years from the passing of this Act.

(*b*) In the case of stock issued for the purpose of redeeming, paying off, or converting any of the annuities, mortgages, or debenture stock representing the permanent debt, mentioned in Part II. of the first Schedule to this Act, within sixty years from the passing of this Act.

(*c*) In case of money to be hereafter raised under any statutory borrowing power, within such period as the Act or Provisional Order or Departmental Order, or sanction authorizing the raising of that money has prescribed, or shall prescribe for the payment off thereof."

Act, and the objects for which the statutory borrowing power was exercised, may consider equitable.

(3.) The amount so advanced shall be a debt due from the corporation revenue on which the deficiency existed to the fund or rate out of which the advance is made, and interest shall be payable thereon at the rate of three pounds ten shillings per centum per annum until repayment, and the same debt and interest shall, as soon as in the judgment of the corporation reasonably may be, be raised and paid out of the corporation revenue on which the deficiency existed.

Payment of sale money, rents, &c. to loans fund.

76 (1). The corporation shall pay into the loans fund, and shall carry to the proper separate account forming part of the general account of the loans fund, all such money being capital or in the nature of capital, and not being otherwise wholly or in part appropriated, or made applicable by law, or by valid contract as shall, from time to time, arise from any sale, lease, or other disposition of land or other property of the corporation on the revenues whereof any corporation stock is charged.

(2.) The corporation shall pay into the loans fund, and shall carry to the proper separate account forming part of the general account of the loans fund, the rents and profits of any land and other property of the corporation acquired by them for the purposes of any undertaking, or purpose for or in respect of which any statutory borrowing power is exercised by them by the issue of corporation stock, and not otherwise wholly or in part appropriated or made applicable by law, or by valid contract.

(3.) The corporation, before making any payment into the loans fund under this section, may deduct from the money or the rents and profits to which this section applies, any costs and expenses properly incurred by the corporation in or about any sale, lease, or other disposition, or the collection and receipt of any rents and profits.

Application of loans fund.

77. The corporation shall, from time to time, apply the loans fund, first in paying the dividends on all corporation stock, and next in redeeming corporation redeemable stock, according to the terms of issue, and in purchasing, for extinction, corporation redeemable or irredeemable stock.

Purchase of irredeemable stock.

78 (1). The corporation shall not be bound to purchase for extinction any corporation irredeemable[1] stock, unless they

[1] As regards the advantages and disadvantages of issuing irredeemable stock, see pages 249 to 256.

can do so at or below par, that is to say, at a price not higher than the nominal amount thereof.

(2.) If any portion of corporation irredeemable stock is not wholly extinguished within the period expressed, or by implication limited for the continuance of any loan, by or under the statutory borrowing power, in exercise whereof that portion of stock is issued, then, after that period, the dividends on that portion of stock, while unextinguished, shall be paid out of the interest and annual proceeds of such money and securities, forming part of the loans fund, as are properly applicable to the extinction of that portion of stock; and, except as far as at any time a deficiency of the loans fund in that behalf exists, no further money shall be paid into the loans fund in respect of those dividends, out of the corporation revenues liable to contribute to the loans fund in respect of those dividends.

(3.) But, in that case, the corporation shall continue to pay into the loans fund the yearly sum theretofore required to be provided, for extinction of that portion of stock, until the securities forming part of the loans fund, applicable to that extinction, are of sufficient value to enable the corporation to purchase therewith, for extinction, the unextinguished part of that portion of stock.

(4.) In case at any time, after the expiration of the period limited as aforesaid, the Local Government Board are of opinion that the corporation can, without material loss, regard being had to the price of issue of the portion of corporation irredeemable stock, which ought to be extinguished within that period, and to the rate of dividend payable thereon, purchase that portion of stock for extinction, then the Local Government Board may, if they think fit, order the purchase for extinction of that portion of stock, or of any part thereof.

(5.) In case at any time, during any period limited for the continuance of any loan, by or under the statutory borrowing power, in exercise whereof any portion of corporation irredeemable stock is issued, the Local Government Board are of opinion that, regard being had to the market value of corporation irredeemable stock, the provision made for the purchase and extinction of any portion of such stock within the prescribed period is insufficient, the Local Government Board may,[1] from

[1] The effect of this sub-section will apparently be, that, if the value of the stock rises in the market above par, and the Local Government Board consider that this rise is likely to be permanent, they may require proportionately larger amounts to be set aside than those prescribed by section 74 (3).

time to time, by order, direct that the contributions to be made to the loans fund, for the purchase and extinction of that portion of stock, in accordance with the provisions of this part of this Act, shall be increased by such amount as shall be specified in the order, so as to provide that the corporation shall purchase and extinguish, or shall be in a position to purchase and extinguish, that portion of corporation stock, within the period limited for the continuance of the corresponding loan.

Extinction of stock redeemed or purchased.

79. All corporation redeemable stock, redeemed by the corporation, and all corporation redeemable or irredeemable stock, purchased by the corporation for extinction, shall be forthwith cancelled by the corporation, and on such cancellation, the same, and all dividends thereon (not already accrued), shall be and the same are by virtue of this Act extinguished.

Account of loans fund.

80 (1). As parts of the generala ccount of the loans fund, the corporation shall keep separate accounts relative to :—

(*a.*) Each undertaking or purpose for, or in respect of which any statutory borrowing power is exercised by them, by the issue of stock; and

(*b.*) Each statutory borrowing power so exercised.

(2.) Those separate accounts shall distinguish and show :—

(*c.*) The portions of corporation stock for the time being unextinguished, and chargeable to each undertaking or purpose, and respectively attributable to the exercise of the several statutory borrowing powers, if more than one relating to that undertaking or purpose; and

(*d.*) The amounts of those several portions of corporation stock redeemed or purchased by means of the loans fund, and cancelled and extinguished.

(3.) Those separate accounts shall further distinguish and show in relation to each undertaking or purpose :—

(*e.*) All money being capital, or in the nature of capital arising from any sale, lease, or other disposition of land or other property of the corporation paid into the loans fund, and in the judgment of the corporation properly attributable to that undertaking or purpose, and the securities on which that money or any part thereof is, from time to time, invested; and

(*f.*) All money, from time to time, received as interest and annual proceeds of the last-mentioned money and securities; and

(*g.*) All money, from time to time, received as rents and

profits of any land and other property of the corporation so as aforesaid acquired, and not otherwise appropriated or made applicable; and

(*h.*) All money and securities transferred to the loans fund, as having formed part of a sinking fund, and all money, from time to time, received as interest and annual proceeds of the last-mentioned money and securities, or of securities wherein the same interest and annual proceeds are, from time to time, invested by way of accumulation; and

(*j.*) All money paid into the loans fund as contributions from the corporation revenues in respect of dividends on the several portions of corporation stock, chargeable to that undertaking or purpose; and

(*k.*) All money paid into the loans fund as contributions from the corporation revenues in respect of redemption and extinction or purchase, and extinction of those several portions of Corporation stock.

Application of income in reduction of contributions.

81 (1). Where[1] any money is standing on a separate account in the loans fund, being money paid into the loans fund as rents and profits of the land and other property of the corporation, or being money paid into the loans fund as interest on cash balances received by the corporation, or being other money paid into the loans fund, but not being capital or in the nature of capital, and not being required by this part of this Act to be applied to the making and maintenance of such accumulations as are prescribed by this part of this Act, the corporation may deal with the same as in this section provided.

(2.) Where any money is standing on a separate account in the loans fund, being money required by this part of this Act to be applied to the making and maintenance of such accumulations as are prescribed by this part of this Act, the corporation after providing for the making and maintenance of those accumulations, may, if they think fit, from time to time, invest

[1] This is a very important section. Its object is apparently to enable the local authority to apply in reduction of the annual payments into the loans fund (1) the interest and annual proceeds of accretions to the fund, which may arise by the operation of section 76 (1), and section 83 (3), or otherwise, and (2) payments made into the loans fund under section 76 (2) or otherwise on account of revenue. As the object of other sections of the Act, *e.g.*, sections 74 (3) and 78 (5), is to secure that the amounts paid into the loans fund shall be sufficient for the purposes for which the fund is created, so the object of this section is to ensure that they shall not be more than sufficient.

that money, or any part thereof in statutory[1] securities, and deal with the interest and annual proceeds of those securities as in this section provided.

(3.) The corporation may, if they think fit, from time to time, apply the money, described in paragraph (1) of this section and the last mentioned interest, and annual proceeds to either of the purposes following, or to both of those purposes in such proportions as the corporation, from time to time, may consider equitable and expedient, that is to say :—

(*a.*) In reduction of such contributions out of the corporation revenues as are payable into the loans fund in respect of dividends on the portions of corporation stock, comprised in the separate account on which the money or interest and annual proceeds is or are standing;

(*b.*) In reduction of such contributions out of the corporation revenues as are payable into the loans fund for redemption and extinction, or purchase and extinction of those portions of stock.

Determination as to charge of stock

82. For the purposes of any contribution or account under this part of this Act, the corporation, if they think fit, having regard to all the circumstances of the case, and subject to the terms on which any loan of the corporation was contracted, or any corporation stock was issued, may, from time to time, determine and declare on which of the corporation revenues any loan of the corporation, or any portion of corporation stock is or shall be deemed to be primarily or collaterally charged, or determine and declare that any loan of the corporation or any portion of corporation stock shall be apportioned as regards the charge thereof between or among any of the corporation revenues, and every such determination and declaration shall be effectual to all intents.

Existing Securites.

Payment off or substitution for existing securities.

83 (1). Where any mortgage, bond, debenture, debenture stock, annuity, rent-charge, or other statutory security, granted or created before or after the passing of this Act, by the corporation, under any statutory borrowing power, or other power, is outstanding or payable, and the corporation have power, with the consent of the holder of that statutory security, or otherwise, to pay off the amount thereby secured, or represented, or to

[1] For the definition of statutory security, see section 68 (2).

redeem the same, they may pay off, or redeem the statutory security accordingly with money raised by corporation stock, or they may, with the consent of the holder thereof, issue corporation stock in substitution for the statutory security.

(2.) The corporation may create and issue corporation stock to such amount as may be requisite for purposes of this section, and that stock shall be deemed to be created and issued, and any money raised thereby, shall be deemed to be raised by virtue of the statutory borrowing power, or other power, under which the statutory security was granted or created, and any money so raised, shall be applied in payment off or redemption of the statutory security.

(3.) In every such case of payment off, redemption, or substitution, the corporation shall pay, and transfer into the loans fund, the whole, or a proportionate part (as the case may require) of any money and securities forming part of any sinking fund applicable to the discharge of the statutory security.[1]

(4.) Where the holder of the statutory security is one of the persons described in section seven of the Lands Clauses Consolidation Act, 1845, and by that Act enabled to sell land thereunder, that person may consent to payment, or redemption of or substitution for the money secured, or represented by that security, and may accept money for giving that consent as if the person so consenting were the absolute owner of that security, and that person is hereby indemnified for so doing, and his receipt shall be a good discharge for the same.

(5.) Money received by the holder of any statutory security as authorized by this section, and corporation stock issued to him in substitution for any statutory security, shall be subject to the same trusts, powers, testamentary and other dispositions, provisions, and incumbrances, as the money secured or represented by the statutory security, was subject to immediately before the payment off, redemption, or substitution, and every testamentary or other disposition, shall take effect with reference to the whole, or a proportionate part of the money or stock received or substituted, as the case may be.

Effect on Borrowing Powers.

84. On the issue of any portion of corporation stock, the Extinction or suspension of power.

[1] The interest on any money transferred to the loans fund under this section, may apparently be applied in diminution of the amounts required to be paid into the fund by section 74 (3); see section 81.

statutory borrowing power, in exercise whereof that stock is issued, shall be affected as follows, namely:

(*a.*) If the stock is issued for the whole term limited for the continuance of any loan, or for the continuance of payment of, or in respect of, any mortgage, bond, debenture, debenture stock, annuity, rent-charge, rent, or other statutory security granted by the corporation, under that statutory borrowing power, then that power, to the extent of the money raised by that stock, shall be, and the same is by virtue of this Act, extinguished; but

(*b.*) If the stock is issued for part only of that term, then, so much of the money raised by that stock as has not been paid off out of the loans fund, may be reborrowed by the corporation, for the residue of that term, or any part thereof, and so from time to time.

Application of Money Raised.

General application of money from corporation stocks.

85. Money raised by corporation stock shall be applied for purposes for which money raiseable under the statutory borrowing power, in exercise whereof the stock is issued, ought by law to be applied, and not otherwise.

Temporary investment of money raised by stock.

86 (1). The corporation may, from time to time, invest temporarily on statutory securities (other than stock certificates to bearer) money raised by corporation stock, and not for the time being applied to or required for the undertaking or purpose for which it is raised and shall, from time to time, pay the interest and annual proceeds of those securities into the loans fund.

(2.) The corporation may, if they think fit, from time to time, apply the interest and annual proceeds aforesaid, or any part thereof, in reduction of such contributions out of the corporation revenues as are payable into the loans fund in respect of dividends on the respective portions of corporation stock by the issue whereof that money is raised.

Registration and Certificates.

Appointment of registrar.

87 (1). The corporation may, if they think fit, and on and subject to such terms and instructions not inconsistent with any provision of this part of this Act, as they think expedient, appoint, and keep appointed, an officer of the corporation, or

other person, or the Bank [1] of England, or any other bank, or a banker as registrar for all or any of the purposes of this part of this Act (in this part of this Act referred to as the registrar).

(2.) The corporation, in relation to the provisions of this part of this Act, and the registrar shall respectively be deemed a banker within the Bankers' Books Evidence Act, 1879.

Corporation stock register.

88 (1). The corporation or the registrar shall keep books in which shall be entered the names and addresses of holders [2] from time to time of corporation stock, and the amounts held by them (in this part of this Act referred to as the corporation stock register).

(2.) The corporation stock register shall be *primâ facie* evidence of any matter entered therein in accordance with this part of this Act, and of the title of the persons entered therein as holders of stock.

Certificates of proprietorship of stock.

89 (1). On demand of a holder of corporation stock the corporation may, if they think fit, give to him a certificate of the proprietorship thereof under their common seal, specifying the amount of corporation stock to which he is entitled (in this part of this Act referred to as a stock certificate).

(2.) A stock certificate shall be *primâ facie* evidence of the title of the person therein named, his executors, administrators, successors, or assigns, to the stock therein specified, but the want of a stock certificate, if such want be accounted for to the satisfaction of the corporation, shall not prevent the holder of stock from disposing of and transferring the same.

(3.) If a stock certificate is worn out or damaged, the corporation, on production thereof, may cancel it and give a similar stock certificate to the party in whom the property in the stock certificate and in the stock therein specified is then vested.

(4.) If a stock certificate is lost or destroyed, the corporation, on proof thereof to their satisfaction, may give a similar stock certificate to the party entitled to the certificate lost or destroyed.

(5.) An entry of the issue of the stock certificate, or the substituted certificate shall be made in the corporation stock register.

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[1] The Birmingham, Hull, Liverpool, Nottingham, and Swansea Corporation Stocks have been brought out under the management of the Bank of England. The Reading Corporation Stock was brought out by the London and Westminster Bank.

[2] As to the right of a married woman to hold stock, see note 2 to section 4 of the Local Loans Act, 1875, in Appendix (3).

Transfer.

Power for stockholder to transfer.

90. Subject to the provisions of this part of this Act, every corporation stock holder may transfer all or any part of his stock in books [1] or by deed.[2]

Transfer in books.

91 (1). If and where the resolution for creation of any portion of corporation stock makes the same transferable in books and not by deed, the provisions of this section shall apply and have effect, but not otherwise.

(2.) The corporation or the registrar shall keep books wherein transfers of corporation stock, so transferable, shall be entered (in this part of this Act referred to as the corporation stock transfer books).

(3.) Every such entry shall be conceived in proper words for the purpose of transfer, and shall be signed by the party making the transfer, or, if he is absent, by his agent thereunto lawfully authorized in writing under his hand attested by a witness.

(4.) Where the Bank of England are the registrar, they may, if they think fit, require that the agent be so authorized by power of attorney, under the hand and seal of the party making the transfer, attested by two or more credible witnesses.

(5.) The person to whom a transfer is made, may, if he thinks fit, underwrite his acceptance thereof.

(6.) Except, as otherwise provided by some other Act of Parliament, and subject to the provisions of this part of this Act respecting any portion of corporation stock which the resolution for creation thereof makes transferable by deed, and not in books, no mode of transferring corporation stock, other than that prescribed in this section, shall be good in law.

Transfer by deed.

92 (1). If and where the resolution for creation of any portion of corporation stock makes the same transferable by deed, and not in books, the provisions of this section shall apply and have effect, but not otherwise.

(2.) Every transfer of corporation stock so transferable shall be by deed.

(3.) The deed of transfer shall relate only to the transfer,

[1] When the transfer of stock is effected in books and not by deed, and the management of the stock is undertaken by the Bank of England, the mode of transfer is practically the same as that employed for the transfer of consols.

[2] As regards the composition for stamp duty on transfer of the stock, to be paid under the Inland Revenue Act, 1880, see note 1 to section 6 of the Local Loans Act, 1875, in Appendix (3).

and shall not contain any recital, trust, power, or proviso whatsoever.

(4.) The deed of transfer, when duly executed, shall be delivered to and kept by the corporation or the registrar, and the corporation or the registrar shall enter a memorial thereof in a book, to be called the register of transfers of corporation stock, and shall endorse on the deed of transfer a notice of that entry.

(5.) The corporation or the registrar shall on demand, and on delivery up of the old stock certificate, or on proof satisfactory to the corporation of its absence, deliver a new stock certificate to the purchaser, or shall, at the option of the purchaser, make an endorsement of the transfer on the existing stock certificate, which endorsement being signed by direction of the corporation, or by the registrar, shall be equivalent to a new stock certificate.

(6.) Until the deed of transfer has been so delivered to the corporation or the registrar, the corporation or the registrar shall not be affected thereby, and the purchaser of the stock shall not be entitled to receive any dividend thereon.

Evidence on transfer.

93 (1). The corporation or the registrar, before allowing any transfer of stock, may, if the circumstances of the case appear to them, or him, to make it expedient, require evidence of the title of any person claiming a right to make the transfer.

(2.) That evidence shall be a statutory declaration of one or more competent persons, or of such other nature as the corporation or the registrar, with the approval of the corporation, may require.

Closing of transfer books.

94 (1). The corporation or the registrar, with the approval of the corporation, may, as regards any portion of corporation stock, close the corporation stock transfer books, or the register of transfers of corporation stock (as the case may be) on any day in the month next before that in which dividends on that portion of corporation stock are payable, but so that the books be not at any time kept closed for more than fifteen days.

(2.) The persons who, on the day of such closing, are inscribed as corporation stockholders, shall, as between them and their transferees of corporation stock, be entitled to the dividend next payable thereon.

Stamp duty on transfers.

95 (1). Unless the corporation have compounded for stamp duty, all stock issued by the corporation shall, notwithstanding anything in any resolution of the corporation, be transferable by

deed, and not in books, and every deed of transfer of stock transferable by deed shall be duly stamped, and the consideration shall be truly stated therein.

Transmission on death.

96 (1). The interest in corporation stock of a stockholder dying shall be transferable by his executors or administrators, notwithstanding any specific bequest thereof.

(2.) The corporation or the registrar shall not be required to allow any executors or administrators to transfer any stock until the probate of the will of or the letters of administration to the deceased has or have been left with the corporation, or the registrar for registration, and may require all the executors who have proved the will to join in the transfer.

Transmission on marriage, &c.

97 (1). If the interest in any corporation stock has become transmitted in consequence of the bankruptcy of a stockholder, or the marriage [1] of a female stockholder, or by any lawful means other than a transfer in books, or by deed, or than the death of a stockholder, that transmission shall be authenticated by a statutory [2] declaration, of one or more competent persons, or in such other manner as the corporation or the registrar require.

(2.) The declaration shall state the manner in which, and the party to whom the stock has been transmitted, and shall be left with the corporation or the registrar.

(3.) If the transmission is in consequence of the marriage [1] of a female stockholder, the declaration shall, if the corporation or the registrar so require, set forth a copy of the register of the marriage, or other particulars of the celebration thereof, and declare the identity of the wife with the holder of the stock.

(4.) The name of the person entitled under the transmission shall be entered in the corporation stock register.

(5.) Until the transmission has been so authenticated, the corporation or the registrar shall not be affected thereby, and no person claiming by virtue thereof shall be entitled to receive any dividend on the stock.

Dividends.

Payment of dividends.

98. The corporation may pay by the registrar, the dividends on corporation stock.

[1] As to the right of a married woman to hold stock, see note 2 to section 4 of the Local Loans Act, 1875, Appendix (3).

[2] Section 4 of the Act provides, that statutory declaration means declaration under the Statutory Declarations Act, 1835.

Dividends to executors, &c.

99. The corporation or the registrar shall not be required to allow any executors or administrators to receive any dividend on corporation stock held by their testator, or intestate, until the probate of the will, or the letters of administration has or have been left with the corporation or the registrar for registration.

Evidence of title.

100. The corporation or the registrar before allowing the receipt of any dividend on any corporation stock, may, if the circumstance of the case appear to them or him to make it expedient, require evidence of the title of any person claiming a right to receive the dividend, and that evidence shall be a statutory declaration of competent persons, or of such other nature as the corporation or the registrar may require.

Dividends to joint holders.

101 (1). Where more persons than one are registered as joint holders of corporation stock, any one of them may give an effectual receipt for any dividend thereon, unless notice to the contrary has been given to the corporation or the registrar by any other of them.

(2.) Where corporation stock is standing in the name of an infant, or person of unsound mind, jointly with any person not under legal disability, a letter of attorney for receipt of the dividends on the stock shall be sufficient authority in that behalf, if given under the hand and seal of the person not under disability, attested by two or more credible witnesses, but the corporation or the registrar before acting on the letter of attorney, may, if they think fit, require proof to their satisfaction of the alleged infancy or unsoundness of mind, by a statutory declaration of one or more competent persons.

Dividend warrants by post.

102 (1). Where a corporation stockholder desires to have his dividends sent to him by post, he may make a request for that purpose to the corporation or the registrar in writing, signed by him, in a form approved by the corporation, and shall give to the corporation or the registrar an address in the United Kingdom, or in the Channel Islands, or the Isle of Man, to which the letters containing the warrants are from time to time to be sent.

(2.) The posting by the corporation or the registrar of a letter containing a dividend warrant addressed to a stockholder at his request, at the address so given, by him, shall as respects the liability of the corporation, and of the registrar, be equivalent to the delivery of the warrant to the stockholder himself.

(3.) Every warrant so sent by post shall be deemed a cheque,

and the corporation and the registrar shall in relation thereto be deemed a banker within The Crossed Cheques Act, 1876.[1]

Stock Certificates with Coupons to Bearer.

Provisions respecting stock certificates with coupons to bearer.

103 (1). On demand of a corporation stockholder, the corporation, or the registrar may issue to the stockholder a corporation stock certificate to bearer, that is to say, a certificate of title to his stock, or any part thereof, entitling the bearer to the stock therein specified and transferable by delivery with coupons, entitling the bearer of the coupons to the dividends on the stock, but so that in case of redeemable stock, no such certificate or coupons shall give a title to dividends beyond the time limited for redemption.

(2.) A corporation stock certificate to bearer shall not be issued in respect of any sum of stock other than ten pounds, or a multiple of ten pounds.

(3.) Notwithstanding anything in this Act, a trustee shall not apply for purchase, take, or hold a corporation stock certificate to bearer, unless he is in express words authorized to do so by the instrument creating his trust, and any contravention of this provision by a trustee shall be deemed a breach of trust, but this provision shall not impose on the corporation, or the registrar an obligation to inquire, or to take notice whether a person applying for or holding a stock certificate to bearer, is or is not a trustee, or subject the corporation or the registrar to any liability in case of their or his, with or without notice, issuing to a trustee a stock certificate to bearer, or invalidate any stock certificate issued.

(4.) Where a corporation stock certificate to bearer is outstanding the stock represented thereby, shall cease to be

[1] This Act has now been repealed by section 96 of the Bills of Exchange Act, 1882, which has, however, provided that such repeal shall not affect anything done or suffered, or any right, title, or interest acquired or accrued before the commencement of the Act, or any legal proceeding or remedy in respect of any such thing, right, title, or interest. Section 97 (3) of the same Act provides that nothing in the Act or in any repeal effected thereby shall affect . . . . *c*) the provisions of any Act relating to or confirming the privileges of the Bank of England or the Bank of Ireland respectively, (*d*) the validity of any usage relating to dividends and warrants, or the indorsements thereof. Section 99 also provides that where any Act or document refers to any enactment repealed by this Act, the Act or document shall be construed, and shall operate as if it referred to the corresponding provisions of this Act. The provisions in this Act corresponding to those in the Crossed Cheques Act, 1876, are contained in Part III. of the Act.

transferable in books, or by deed under and according to the provisions of this part of this Act.

(5.) The bearer of a corporation stock certificate to bearer, may on delivery up to the corporation or the registrar of the certificate, and of all unpaid coupons belonging thereto, require to be entered in the register as the holder of the stock described in the certificate under which he derives title, and thereupon the stock shall be re-entered in the corporation stock register as transferable, and shall become and again be transferable in the corporation stock transfer book, or by deed as the case may require, and shall, as regards the mode of payment of the dividends thereon, be in the like condition as if no stock certificate to bearer had been issued in respect thereof.

(6.) The coupons issued with a corporation stock certificate to bearer, shall comprise the dividends to be paid in respect of the stock therein specified for such period as the corporation approve.

(7.) At the end of that period, fresh coupons may be issued for such further periods as the corporation approve, and so for successive periods during the continuance in force of the stock certificate, but the corporation or the registrar may in lieu of issuing fresh coupons in respect of any stock certificate, give in exchange a fresh stock certificate with coupons.

(8.) Payment to the bearer of a coupon of the amount expressed therein, shall be a full discharge to the corporation and to the registrar from all liability in respect of that coupon and the dividend represented thereby.

(9.) When the Bank of England are the registrar, coupons shall be payable at the chief establishment of the bank at the expiration of three clear days from the day of presentation, and at any branch establishment of the bank situate more than ten miles from the chief establishment at the expiration of five clear days from the day of presentation.

(10.) If a corporation stock certificate to bearer or coupon is worn out, or damaged, the corporation or the registrar on production and delivery up thereof, may cancel it, and issue a new certificate or coupon.

(11.) If a corporation stock certificate to bearer or coupon is lost, or destroyed, the corporation or the registrar may issue a new certificate or coupon on receiving indemnity to the satisfaction of the corporation against the claims of all persons deriving title under the certificate or coupon lost or destroyed.

(12.) Corporation stock specified in a stock certificate to bearer, shall be charged on the same securities, and be subject to the same powers of redemption, if any, and other powers and save as regards the mode of transfer and of payment of dividends thereon, and save so far as a stock certificate to bearer is a negotiable instrument, shall be subject to the same incidents in all respects as if that stock had continued to be registered in the corporation stock register as transferable in books or by deed.

(13.) When the Bank of England are the registrar, they may, with the sanction of the corporation, from time to time, issue any forms that may be required for carrying into effect, the provisions of this part of this Act, and may also, from time to time, make any regulations that are not inconsistent with this part of this Act, relative to the following things, and when made, may alter, vary, or repeal any such regulations, and make other regulations instead thereof, or in addition thereto, and any such regulations for the time being in force shall be duly observed.

(*a.*) The period for which coupons are to be given.

(*b.*) The mode in which the bank is to act in issuing stock certificates to bearer, or entering in the transfer books the bearers of stock certificates to bearer.

(*c.*) The mode of proving the title of, or identifying any person applying for a stock receipt, or stock certificate, or stock certificate to bearer.

(*d.*) With respect to anything necessary for carrying into effect the provisions of this part of this Act, which relate to or affect the bank.

General.

Nature of corporation stock; notice of trusts.

104 (1). Corporation stock is personal[1] property.

(2.) Corporation stock is not liable to foreign attachment by the custom of London or otherwise.

[1] See *Cluff* v. *Cluff* (L. R. 2 C. D. 222), in which consolidated stock, issued by the Metropolitan Board of Works, was held to be impure personal estate, and a bequest of it to a charity was declared to be void under the Mortmain Act (9 Geo. 2, c. 36). But as has been already pointed out in the note on page 266, when the local security is charged on rates only, it is pure personalty. See the cases there cited, which have to this extent over ruled the old cases of *Ashton* v. *Lord Langdale* (4 D. G. Q. S. 402), where mortgages of turnpike tolls, and of railway undertakings, and *In re Langham's Trust* (10 Hare, 446), where securities on the tolls, rates, duties, and undertaking of a canal company were held to be interests in land, and bequests of them to be void under the Mortmain Act.

(3.) No notice of any trust, express, implied, or constructive, in respect of any corporation stock, or of any corporation stock certificate to bearer, or coupon, shall be entered in the corporation stock register, or in any other book kept by the corporation, or the registrar, or be receivable by the corporation or the registrar, or affect the corporation through the registrar or otherwise.

Receiver.

105 (1). If at any time the corporation for two months after demand in writing, fail to pay any dividend due on any corporation stock, the person entitled thereto may apply to Her Majesty's High Court of Justice, in the Chancery Division, for a receiver, and the court may, if it thinks fit, appoint a receiver on such terms as it thinks fit.

(2.) The receiver shall have the like power of collecting, receiving, recovering, and applying all money which ought to be paid under this part of this Act, into the loans fund, and of assessing, making, and recovering all rates, for the purpose of obtaining the same, as the corporation or any officer thereof would or might have, and such other powers and such duties as the court thinks fit, and shall apply all money so collected, after payment of expenses and costs, as the court directs for purposes of this part of this Act.

(3.) The court may at any time discharge the receiver, and shall have full jurisdiction over him, and all persons interested in his acts.

Holding of corporation stock by trustees.

106 (1). Trustees or other persons for the time being authorized to invest money in the mortgages, debentures, or debenture stock of any railway or other company, shall, unless the contrary is provided by the instrument authorizing the investment, have the same power of investing that money in corporation stock (other than stock for the time being represented by a stock certificate to bearer), as they have of investing it in the mortgage debentures or debenture stock aforesaid.

(2.) Provided that where two or more persons are successively interested in trust money, no investment thereof shall be made in corporation redeemable stock, at a price exceeding the redemption value of the stock.

Protection of holders of corporation stock.

107. A person taking or holding corporation stock shall not be concerned to enquire, or to take notice whether the creation or issue thereof, was or was not within any statutory borrowing power of the corporation, or otherwise in accordance with this part of this Act, or whether or not the council, or any meeting

thereof was properly constituted or convened, or whether or not the proceedings at any meeting of the council were legal or regular, or to see to the application of any money raised by corporation stock, or be answerable for any loss or misapplication thereof.

Annual return to Local Government Board.

108 (1). Once in every year at a time appointed by the Local Government Board, the corporation shall send to that Board an abstract of the accounts of the corporation relating to corporation stock and the loans fund in a form prescribed by that Board and verified by a statutory declaration of the town clerk if required by that Board.

(2.) In case of wilful default therein by the corporation, the corporation shall on each occasion be liable to a fine not exceeding two hundred pounds, and in case of wilful default therein by the town clerk, the town clerk shall on each occasion be liable to a fine not exceeding twenty pounds, and every fine under this section shall be recoverable summarily on the prosecution of the Local Government Board, and not otherwise.

(3.) If by any such abstract or otherwise it appears to that Board that the corporation have failed to comply with any requisition of this part of this Act in relation to any payment, application, or investment, or otherwise, in relation to corporation stock or the loans fund, that Board may, notwithstanding any proceeding for the recovery of any fine, or any other proceeding taken by that Board, by order, require the corporation to make good the default within a time therein limited.

Unclaimed dividends.

109 (1). If at any time any dividend on any corporation stock is unclaimed at the time for payment thereof, the same shall, nevertheless, on demand at any subsequent time whatsoever, be paid to the person showing his right thereto, but without interest in the meantime.

(2.) Where any dividend remains unclaimed for five years from the time for payment thereof, the corporation shall cause notice thereof to be sent by post in a registered letter addressed to the stockholder named in their books by the description, and at the address therein appearing, and so at the expiration of three other successive periods of five years.

(3.) At the end of every successive period of five years from the day when the first dividend becomes payable on corporation stock first issued after the passing of this Act, the corporation shall publish an advertisement in a newspaper circulating in the

borough, stating what, if any, dividends on corporation stock other than those falling due at the then last half-yearly or other day of payment are then unclaimed, and the names and addresses appearing in the corporation stock register of the holders of the stock on which the dividends are unclaimed.

(4.) At the end of every successive period of ten years from the day when the first dividend becomes payable on corporation stock first issued after the passing of this Act, the corporation, unless it has been otherwise agreed between them and the registrar, may require the registrar to repay to them all dividends unclaimed during that period, and then in his hands, and the corporation shall pay the same into the loans fund, and may deal therewith as they are by this part of this Act empowered to deal with money paid into the loans fund as interest on cash balances received by them without prejudice, nevertheless, to the rights under this section of persons showing title to those dividends.

Saving for power to borrow otherwise than by corporation stock.

110. Nothing in this part of this Act shall affect any power of the corporation to raise otherwise [1] than by corporation stock any money which they do not think fit to raise by corporation stock, but whenever from time to time after the date of the first issue of corporation stock the corporation raise money otherwise than by corporation stock, they shall cause to be given to each lender of money so raised, notice in writing, signed by the town clerk or other authorized officer of the corporation of the priority of charge which corporation stock has or may have by virtue of this part of this Act.

Saving for power of revocation.

111. Notwithstanding anything in this part of this Act the council may revoke at any time in whole or in part any resolution for creation of corporation stock theretofore passed by the council, if and as far as the same has not been acted on by the issue of stock thereunder.

Saving for other obligations.

112. Except as in this part of this Act expressly provided nothing in this part of this Act shall relieve the corporation from any obligation imposed on them in relation to any statutory borrowing power by any Act of Parliament under or by which that power for the time being exists or is regulated.

Saving for power to sell lands, &c.

113 (1). Nothing in this part of this Act shall affect any power or duty of the corporation to sell, lease, or otherwise dispose of any land or property of the corporation, or to apply

[1] As to the importance of this reservation, see note 1 on page 234.

any purchase-money, or other money arising thereby, in discharge of any charge on that land or property, or the revenues thereof other than the charge of corporation stock, or affect any claim of any person under such first-mentioned charge.[1]

(2.) That land or property shall, in the hands of the purchaser or other person taking the same under the sale, lease, or other disposition, be, by virtue of this Act, absolutely freed from the charge of corporation stock, and he shall not be concerned to see to the application of that purchase-money or other money, or be answerable for any loss or mis-application thereof.

Saving for existing securities.

114. Nothing in, or done, under this part of this Act shall affect any security, or charge created or granted, or payable by the corporation before, and subsisting at the date of the first issue of any corporation stock, and the corporation shall, whenever required by the holder of any security or charge aforesaid, apply all such money, do all such acts, exercise all such powers, collect all such money, and make and levy all such rates as they would or ought to have applied, done, exercised, collected, made, and levied for his benefit and security if this part of this Act had not been enacted.

Forgery.

115 (1). Corporation stock shall be deemed capital stock of a body corporate within the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty (chapter ninety-eight) "to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery."

(2.) A Corporation stock certificate to bearer and a coupon connected therewith shall be deemed a stock certificate and coupon within the Forgery Act, 1870.

Orders of Local Government Board.

116. Any Order of the Local Government Board, under this part of this Act, may contain such directions as the Board think necessary or proper for giving effect thereto, and shall be enforceable by writ of *mandamus* to be obtained by the Board out of Her Majesty's High Court of Justice, and may be, from time to time, cancelled or varied by the Board as the circumstances of the case may require, but the Board shall not make any such order without first hearing the corporation, if desirous of being heard, which hearing may be in the form of public enquiry with or without a published report, or in such other

[1] It should be noted that under section 76 (1) the proceeds of any sale under this section unapplied in the discharge of the charges here referred to must be paid into the loans fund.

form as the Board, having regard to the circumstances, think just and expedient, and sections 294 and 296 of the Public Health Act, 1875, shall apply to hearings, enquiries, and other proceedings to which this section relates.

117. The forms given in the Schedule may be used for the purposes therein indicated, and the same or forms to the like effect with such variations or additions as circumstances require, shall be effectual for those purposes. Forms.

118 (1). Fees, not exceeding those specified in the Schedule, may be taken by, or on behalf of, the corporation in the cases therein mentioned. Fees.

(2.) The proceeds of fees shall be paid by the corporation into the loans fund, and shall be applied in reduction of contributions out of the corporation revenues, payable into the loans fund in respect of dividends on such portions of corporation stock as the corporation, having regard to the cases in which the fees are paid, determine.

119 (1). The expenses incurred by the corporation in or about the creation and issue of any portion of corporation stock, including any sum paid by them for composition for stamp duty thereon, and any other expenses, being in their judgment properly chargeable to capital, shall be deemed money raiseable under the statutory borrowing power in exercise whereof that portion of stock is issued. Expenses.

(2.) Expenses of book-keeping and management, and other current expenses, from time to time incurred by the corporation in the execution of this part of this Act, shall be defrayed as the ordinary expenses of the corporation as a municipal body or as a sanitary authority are or may be defrayed.

THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

FORMS.

(A.)

Resolutions for Creation of Stock.

Borough of Derby.

day of 188

At a meeting of the council of the Borough of Derby, holden on the day of 188 , at

o'clock in the forenoon in the council chamber within the town hall as a special council,

Present:

A.B. Mayor and a full council,

Resolved, first—

That under the authority and subject to the provisions of the Derby Corporation Act, 1882, the corporation, acting by the council, do hereby, in exercise of their several statutory powers, create stock, to be called Derby Corporation Irredeemable Stock, 188 , and to be issued to an amount which shall be sufficient for the following purposes, but not exceeding pounds (£):—

A. For raising the following sums (amounting in the aggregate to the sum of pounds which has not been raised), that is to say:—

(1.) The sum of pounds, on account of the money which the corporation have authority to raise by borrowing under the powers conferred upon them by the Acts for the purchase-money for , and the cost of reconstruction of portions thereof.

(2.) The sum of pounds, on account of the money which the corporation have authority to raise by borrowing under the powers conferred upon them by the Acts for the cost of construction of

(3.) The sum of pounds, on account of the money which the corporation have authority to raise by borrowing under the powers conferred upon them by the Acts for the construction of

(4.) The sum of pounds, on account of the money which the corporation have authority to raise by borrowing under the powers conferred upon them by the Acts for the purposes of sewering and paving within the borough.

B. For raising instead of reborrowing the sum of pounds, required by the corporation for the purpose of paying off, when due, sums amounting to pounds which will fall due before the 1st January, 188 , being a portion of their debts now subsisting on the security of outstanding securities

granted by the corporation for raising money for the purposes of the following Acts, that is to say :—

and which sums the corporation are, under those Acts, authorized to reborrow.

C. For raising the sum of pounds, for repaying the amount temporarily borrowed by the corporation from in order to enable the corporation to meet sums which amount to pounds, being a portion of their debt secured on outstanding securities granted by the corporation for raising money for the purposes of the following Acts, that is to say :—

and which sums the corporation are, under those Acts, authorized to reborrow.

D. For raising the sum of pounds, for paying off or redeeming statutory securities granted by the corporation under the following Acts, and now outstanding, that is to say :—

E. For the purpose of issuing stock in substitution for statutory securities granted by the corporation under the following Acts, and now outstanding, that is to say :—

Resolved, secondly—

That such stock shall be issued at the price and shall bear the dividends and be transferable in the manner herein-after specified, that is to say :—

A. The minimum price of issue to be £ per cent., the first dividend to be payable on the 1st January, 188

B Tenders for stock to be made to the

A deposit of five per cent. on the amount of stock tendered for to be paid at the at the time of the delivery of the tender.

C. The dates for the further payments on account of the said tenders, when accepted, to be as follows :—On the day of 188 , so much of

the amount tendered and accepted as when added to the deposit, will leave £ (sterling) to be paid for each £100 of stock. On ,
twenty-five per cent. On ,
twenty-five per cent. On ,
twenty-five per cent. In case of default in the payment of any instalments at its proper date, the deposit and instalments previously paid will be liable to forfeiture.

D. Dividends at £ per cent. per annum, payable quarterly.

E. Dividends on the total amount of stock calculated from the of 188 , to be payable on the 1st January, 188

F. Scrip certificates to bearer, with coupons attached for the dividends payable 1st January, 188 , and 1st April, 188 , to be issued in exchange for the provisional receipts.

G. In the event of the receipt of tenders for a larger amount of stock than that proposed to be issued at or above the minimum price, the tenders at the lowest price accepted to be subject to a proportionate diminution.

H. Stock to be issued in sums of not less than £10.

I. Stock to be transferable in books and not by deed.

Resolved, thirdly—

That such stock shall be irredeemable[1] or [shall be redeemable as follows : state terms.]

Resolved, fourthly—

That subject to the approval of the Commissioners of Her Majesty's Treasury, an agreement be entered into with the Commissioners of Inland Revenue for the payment to the last mentioned Commissioners of composition under the provisions of section[2] 53 of Inland Revenue Act, 1880, for the stamp duty on transfers of stock issued under the foregoing resolutions.

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[1] With respect to the considerations, which should be borne in mind by a local authority, in determining whether its stock shall be redeemable or irredeemable, see above, pages 249 to 256. There are practically two ways in which the stock can be made redeemable, that is to say, the local authority may issue it on terms, which will enable them, if they see fit, to redeem it at par, at or after the expiration of a prescribed period, or on terms which will render it compulsory for them to redeem it at par at the end of such a period. The advantages of each of these methods are discussed at pages 249, 250, 253, and 254.

[2] The provisions of this section will be found on reference to note 3 on page 292.

(B.)

Stock Receipt.

DERBY CORPORATION STOCK.

(£ per cent.)

Transfer days: Monday Tuesday Wednesday Thursday Friday Holidays excepted.

RECEIVED this day of 188 , of

herein-after called the said Transferee the sum of

being the consideration for

interest or share in the Derby Corporation Stock £ per cent. transferable at the Bank of England, and all my property and interest in, and right to the same, and the dividends thereon, by this day transferred unto the said transferee.

Witness Hand

Witness

*** The proprietors, to protect themselves from fraud, are recommended to accept, by themselves or their attorneys, all transfers made to them.

£ *s.* *d.*

[Indorsement.]

NOTICE TO HOLDERS OF DERBY CORPORATION STOCK.

(£ per cent.)

Payment of Dividends.

Dividends are due on the 1st of January, 1st of April, 1st of July, and 1st of October, unless the 1st of either of these months falls on a Sunday, in which case the dividends will be payable on the following day.

Dividends will be paid in one of the following modes :—

I. To the stockholders personally, or to their attorneys, at the Bank of England.

N.B.—Stockholders may arrange for the receipt of their dividends, free of charge, at any of the country branches on application to the agent.

II. By transmission of dividend warrants by post, at the risk of the stockholder, under the following regulations :—

1. Any stockholder residing in the United Kingdom who desires to have his dividend warrants by post, must fill up a form of application, to be obtained at the bank or any of its branches.
2. In the case of joint accounts, the application must be signed by all the members of the account, directing the warrant to be sent to one of them at a given address.
3. Post dividend warrants will be crossed "& Co.," and will only be payable through a banker. They will be drawn to the order of the stockholder, and must be indorsed.

*** Stockholders, whose warrants are sent by post should give notice to the bank if they are not received on the day on which they ought to be delivered, but need not acknowledge those that arrive in due course.

Stock Certificates.

Stock certificates to bearer, of the denominations of £10, and any multiple of £10, with coupons for the quarterly dividends attached, may be obtained in exchange for inscribed stock.

(C.)

Corporation Stock Certificate.

Borough of Derby.

Number

This is to certify that A. B., of [ ] is the Proprietor of [ ] pounds of Derby Corporation Redeemable [or Irredeemable] stock subject to the Acts of Parliament relating thereto.

Given under the common seal of the mayor, aldermen, and burgesses of the borough of Derby, this day of

18

(D.)

Transfer in Books.

No.

DERBY CORPORATION STOCK.

Entered by

(per cent.)

No.

this day of in the year of our Lord one thousand eight hundred and do assign and transfer

£	s.	d.

interest or share in the Derby Corporation Stock (per cent), transferable at the Bank of England, and all my property and interest in, and right to the same, and the dividends thereon, unto

Witness to the identity of

executors, administrators, or assigns. Witness hand ——witness

do freely and voluntarily accept the above stock transferred to witness

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(E.)

Application for issue of Power of Attorney.

Bank of England, the day of 188

From A. B. and C. D. [*the registered stockholders in the bank books*]

£ Derby Corporation stock (per cent.)

To G. H. [*the intended attorney*]

Examined by Dr. fol. Posted by Cr. fol. Posted by Transfer book

(F.)

Power of Attorney for Sale and Transfer and for Receipt of Dividends.

Corporate Account.

DERBY CORPORATION STOCK.

Acceptance, sale of £ and dividends.

We

our attorneys and attorney

for us and in our name and on our behalf—

First—to accept all transfers made or to be made to us of any sum of

Derby Corporation Stock.

Secondly—to sell and transfer all, or any part of, the sum of said stock standing in our name in the books of the Governor and Company of the Bank of England;

Thirdly—to receive and give receipts for all dividends or payments due, or to become due, on any sum of the said stock from time to time standing in our name in the books of the Governor and Company of the Bank of England;

And also—to do whatever is necessary or proper to be done for the purposes aforesaid, or any of them.

In witness whereof we have hereunto affixed our corporate seal this day of in the year of our Lord one thousand eight hundred and

Sealed with the corporate seal and delivered in the presence of

N.B.—The execution of this letter must be attested by two witnesses who are not of the corporate body, and who must be present when the corporate seal is affixed.

[Indorsement.]

Instructions for Executing the within Letter of Attorney.

Corporate Account

The date must be inserted in words and not in figures.

The execution must be attested by two credible witnesses who are not of the corporate body, and who must add their addresses and their qualities, professions, or occupations.

A witness resident in a town must give the number of the house as well as the name of the street.

If clerks or servants are witnesses they must give the names and addresses of their employers.

When a witness is a female she must state she is a spinster, wife, or widow; and if a wife, she must give her husband's name, address and quality, profession, or occupation.

A wife is not a valid witness to the execution of this letter of attorney when her husband's name appears in the letter as attorney or transferee.

If any alteration, interlineation, or erasure be made in this letter of attorney, it must be particularly stated in the attestation, subscribed to by the witnesses, that such alteration, interlineation or erasure was made previously to the execution of the letter.

I demand to act by this letter of attorney, this
day of 188 witness.

(G.)

Deed of Transfer.

Borough of Derby.

I, A.B. of in consideration of the sum of pounds paid to me by C.D. of (herein-after called the said transferee) do hereby transfer to the said transferee the sum of pounds Derby Corporation Redeemable [or Irredeemable] stock 188 , standing or part of the stock standing in my name in the books of the mayor, aldermen, and burgesses of the borough of Derby, to hold unto the said transferee, his executors, administrators, and assigns, or successors and assigns, subject to the several conditions on which I hold the same at the time of execution hereof, and I, the said transferee, do hereby agree to take the said stock subject to the same conditions.

As witness our hands and seals the day of

(H.)

Dividend Warrant.

DERBY CORPORATION STOCK.

(£ per cent.)

To the Cashiers of the Bank of England.

Pay to bearer the sum of_____

for one quarter of a year's dividend on the sum of £ Derby Corporation Stock (£ . per cent.) due 188 . Less Property Tax at *d.* per £

I do hereby acknowledge to have received of the Bank of England the above-mentioned sum in full payment for one quarter of a year's dividend due as abovesaid.

Witness

Witness my hand this 188

(I.)

Dividend Warrant by Post.

(1.) DERBY CORPORATION STOCK.

(£ per cent).

Request for Transmission of Dividend Warrants by Post.

To the Governor and Company of the Bank of England.

Amount, "my" or "our." A sum of £ Derby Corporation Stock (£ . per cent.) is now standing in name as follows :—

Names, addresses, and descriptions as recorded in the bank books.

"I" or "we." As the person entitled to the dividends upon the above-mentioned amount of stock hereby authorize

the Accountant-General of the Bank of England for the time being in the name of to draw upon the Governor and Company of the Bank of England for the amount of the quarterly dividends due and to become due on the said amount of stock or on the amount for the time being standing in name :

"myself" or "our *nominee.*"

And hereby request the said Accountant-General to send through the post at risk and until further notice the warrants so drawn to

"my" or "our."

"I" or "we," "my" or "our."

Name ,_____

Present Address_____

_____

If the account is a sole one, insert here the name and address of the stockholder.

SIGN HERE.

_____

In the case of Joint Stockholders or of Co-Executors all must sign.

_____

_____

_____

If the account is a joint one insert here the name and address of one of the stockholders as *nominee.*

Date_____188___.

[*On Second Half-Sheet of same Form.*]

This half-sheet is to be retained by the stockholder. Reference to it will often save unnecessary correspondence.

NOTICE TO HOLDERS OF DERBY CORPORATION STOCK.

(£ per cent.)

(*Transmission of Dividend Warrants by Post.*)

Dividends upon the above-named stock may be transmitted through the post to the stockholders in sole accounts and to any one of the stockholders in joint accounts at their risk, upon a form of request being duly filled up and forwarded to the Accountant-General, Bank of England. (Forms are obtainable at the Bank of England and at any of its branches.)

N.B.—This arrangement does not apply to stockholders whose addresses are beyond the United Kingdom.

Persons receiving dividends under letter of attorney cannot have the warrants for such dividends sent to them by post.

A separate form must be used for each separate holding of stock.

When forwarding a form of request, care should be taken to state the number of overdue dividends, if any.

Dividends are payable on 1st January, 1st April, 1st July, and 1st October.

When the 1st happens on a Sunday, the dividends are not payable until the 2nd.

Forms of request may be delivered at the bank at any date, either by hand or through the post, but when received between the day on which the balance for a dividend is struck and the day on which the dividend is payable, the warrants for such next dividend will be forwarded as soon as possible, but the bank will not guarantee their being posted on the day before the dividend is payable.

For the dividend payable 1st January, the balance is struck [on or about the 1st December.

,,	1st April	,,	1st March.
,,	1st July	,,	1st June.
,,	1st October	,,	1st September.

Warrants for overdue dividends will be forwarded as promptly as possible, but not necessarily by return of post.

Any change of address of the stockholder in sole accounts, or of the nominee in joint accounts should be notified at once to the Accountant-General. When any such notification reaches the bank less than a fortnight before the next dividend is due, there may be a delay of a few days in the delivery of the warrant for such next dividend.

In the absence of any notification to the contrary, it will be taken for granted that dividend warrants have duly reached their destinations. When they are not received on the correct day, notice should be given to the Accountant-General without delay.

As postal dividend warrants are made payable to order they must be indorsed; they are crossed in blank, and consequently are only payable on presentation by a banker. (The bank will not undertake to cross postal dividend warrants with the names of particular bankers.)

Instructions to transmit warrants by post remain in force, although the stock may have been added to or a part sold.

Stockholders selling stock by attorney, if they wish to continue to receive their dividends through the post, should instruct their bankers or brokers to obtain letters of attorney for sale only.

All communications, with reference to postal dividend warrants, should be addressed to the Accountant-General, Bank of England, and the postage should be prepaid.

(2.)

Post Dividend Warrant.

DERBY CORPORATION STOCK.

(£ per cent.)

To the Governor and Company of the Bank of England, London.

Pay to me or my order the sum of

Being one quarter of a year's dividend at £3 10*s.* per cent. per annum, due on the 1st day of 188 , on the sum of

£ { Derby Corporation Stock (£ per cent.)

Less Property Tax at per £

Accepted for the Governor and Company of the Bank of England.

Per pro

Chief Cashier. *Accountant-General.*

The person to whom this warrant is payable must sign his or her name on the back of it.

(K.)

Stock Certificate with Coupons to Bearer.

DERBY CORPORATION STOCK CERTIFICATE.

Dividend at £ per cent. per annum.

£ A00000

This is to certify that the bearer of this certificate is entitled to pounds Derby Corporation (Redeemable) stock,

with dividend thereon, at the rate of £ per cent. per annum, transferable at the Bank of England, pursuant to the Derby Corporation Act, 1882.

Dated , 188 .

For the Governor and Company

of the Bank of England.

Countersigned,

Chief Accountant,

Bank of England.

A00000 £

The coupons attached to this certificate are payable at the chief establishment of the Bank of England, or at any of the country branches.

When the coupons are exhausted this certificate will be exchanged on presentation at the chief cashier's office, Bank of England, for a new certificate with fresh coupons attached.

[Coupons.]

5 Div.	**DERBY CORPORATION STOCK.**	5 Div.
Coupon for	shillings and pence, (Less Income Tax) being three months dividend at £ per cent. per annum.	Derby Corporation Stock. Due 1st Jan., 1886.
A00000	Due 1st January, 1886, on certificate for pounds Derby Corporation Stock.	A00000
£	*Payable at the Bank of England.*	£
4 Div.	**DERBY CORPORATION STOCK.**	4 Div.
Coupon for	shillings and pence, (Less Income Tax) being three months dividend at £ per cent. per annum.	Derby Corporation Stock. Due 1st Oct, 1885.
A00000	Due 1st October, 1885, on certificate for pounds Derby Corporation Stock.	A00000
£	*Payable at the Bank of England.*	£

3 Div.	**DERBY CORPORATION STOCK.**	3 Div.
Coupon for	shillings and pence, (Less Income Tax) being three months dividend at £ per cent. per annum.	Derby Corporation Stock. Due 1st July, 1885.
A00000	Due 1st July, 1885, on certificate for pounds Derby Corporation Stock.	A00000
£	*Payable at the Bank of England.*	£

2 Div.	**DERBY CORPORATION STOCK.**	2 Div.
Coupon for	shillings and pence, (Less Income Tax) being three months dividend at £ per cent. per annum.	Derby Corporation Stock. Due 1st April, 1885.
A00000	Due 1st April, 1885, on certificate for pounds Derby Corporation Stock.	A00000
£	*Payable at the Bank of England.*	£

(L.)

Fees.

	£	*s.*	*d.*
On original issue of stock receipt or stock certificate	0	2	6
On any new stock certificate	0	2	6
On transfer including certificate	0	5	0
On any issue of stock certificate to bearer in respect of every ten pounds of stock specified therein ...	0	0	6
On re-entry in corporation stock register of stock specified in stock certificate to bearer	0	5	0

APPENDIX (5.)

ORDERS OF THE LOCAL GOVERNMENT BOARD.

1. *Order prescribing form of Sinking Fund return under the Local Loans Act*, 1875.

To the several local authorities in England and Wales, as defined by "The Loans Act, 1875";—
And to all others whom it may concern.

WHEREAS "The Local Loans Act, 1875," by section 13, requires that every loan borrowed in manner provided by that Act shall be discharged within the prescribed period from the date thereof, and that such discharge shall be secured, where a sinking fund is prescribed, but not otherwise, by the establishment of a sinking fund, and the application thereof in manner by that Act provided;

And whereas by section 16 of the said Act it is enacted that "where a sinking fund is created for the purpose of discharging any loan, or part of a loan, the local authority shall, until such loan or part of a loan is discharged, within twenty-one days after the expiration of each year, transmit to the Local Government Board a return in such form, and verified in such manner, as the Board from time to time directs, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period, and the total amount (if any) remaining invested at the end of the year:"

NOW, THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, hereby order that, until we shall otherwise direct, the returns relating to a sinking fund required to be transmitted to us in pursuance of section 16 above recited, shall be in the form set forth in the Schedule to this Order, and shall be verified by statutory declaration.

SCHEDULE.

Return as to Sinking Fund.

Name of local authority, _____

Act by which the sinking fund is prescribed, _____

Period prescribed for discharge of the loan, _____

Prescribed mode of investment, if any, _____

Amount of loan in respect of which the return is made, _____

Date of loan, _____

Rate of accumulation, on which the payments into the fund are based _____

Whether payments are made yearly or half-yearly, _____

Period for which the return is made, viz., year ending _____

Date of commencement of sinking fund, _____

Amount paid into the Sinking Fund during the Year.			Description of Securities on which invested.	Nominal value of Securities purchased.			Rate of Interest payable thereon.			Amount of Loan discharged during the Year.			Rate of Interest payable on amount so discharged.			Total amount remaining invested at the end of the Year.			Description of Securities in which invested.
£	s.	d.		£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	

Dated the _____ day of _____ 18____.

Signed _____ *Clerk.*

[or other Officer acting for the Local Authority in this behalf.]

Given under the seal of office of the Local Government Board, this fourteenth day of November, in the year one thousand eight hundred and seventy-eight.

G. SCLATER-BOOTH,
President.

L S.

HUGH OWEN, JUN.,
Assistant Secretary.

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2. *Order prescribing forms of return as to Sinking Fund, Instalments or Appropriations under Local Acts of* 1879 *and* 1880.

To the mayor, aldermen, and burgesses of the several boroughs named in the Schedule (A.) to this Order;—

To the local boards for the several local government districts, and to the Improvement Commissioners for the several Improvement Act districts named in the said Schedule;—

To the guardians of the poor of the several unions named in the said Schedule, being the sanitary authorities for the rural sanitary districts of those unions respectively;—

To the Clacton-on-Sea commissioners;—

To the Conway bridge commissioners;—

To the Llandisilio commissioners;—

To the churchwardens and overseers of the poor of the parish of Saint Pancras;—

To the West Kent Main Sewerage Board;—

And to all others whom it may concern.

WHEREAS by the local Acts, the titles of which are set forth in the second column of the Schedule (A.) to this Order, certain returns are required to be transmitted to the Local Government Board, in such form as may be prescribed by that Board, and verified by statutory declaration, if so required by them, with respect to certain sinking funds and instalments and appropriations to be set apart and paid under the provisions of the said local Acts;

And whereas the said local Acts are in force in the whole or part of the boroughs, districts, and parishes, the names of which are set opposite to the titles of the said local Acts in the first column of the said Schedule;

NOW, THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, hereby order that, until we by order otherwise direct the returns required to be transmitted to us as regards the sums of money to be set apart for a sinking fund, or paid off by instalments or appropriations in pursuance of the several local Acts named in the Schedule (A.) to this Order, shall be in the forms respectively set forth in the Schedule (B.) to this Order, and shall be verified by statutory declaration.

In this Order the words "boroughs" and "burgesses" have the same meaning as in the Act passed in the 5th and 6th years of the reign of His late Majesty King William the Fourth, intituled "an Act to provide for the regulation of municipal corporations in England and Wales."

SCHEDULE (A.)

Boroughs, Districts, and Parishes.	Titles of Local Acts.
WHITEHAVEN UNION RURAL SANITARY DISTRICT.	The Arlecdon and Frizington Water Act, 1879. (42 & 43 Vict., c. cxxxi.)
BATH BOROUGH - - -	The Bath Act, 1879. (42 & 43 Vict., c. lxii.)
BIRMINGHAM BOROUGH -	The Birmingham (Corporation) Water Act, 1879. (42 Vict., c. xxxvii.)
KING'S NORTON UNION RURAL SANITARY DISTRICT - - - -	The Birmingham Gas (Northfield and Yardley) Act, 1879. (42 & 43 Vict., c. cxxx.)
SOLIHULL UNION RURAL SANITARY DISTRICT -	
BLACKBURN BOROUGH -	The Blackburn Improvement Act, 1879. (42 & 43 Vict., c. cxvi.)
BLACKPOOL BOROUGH -	The Blackpool Improvement Act, 1879. (42 & 43 Vict., c. cxcix.)

Boroughs, Districts, and Parishes.	Titles of Local Acts.
BURTON-UPON-TRENT BOROUGH.	The Burton-upon-Trent Corporation Act, 1880. (43 & 44 Vict., c. cxxxix.)
CARDIFF BOROUGH - -	The Cardiff Corporation Act, 1879. (42 & 43 Vict., c. cxxxiii.)
CHEPPING WYCOMBE BOROUGH.	The Chepping Wycombe Borough Extension Act, 1880. (43 & 44 Vict., c. xxvi.)
CLACTON-ON-SEA SPECIAL DRAINAGE DISTRICT.	The Clacton-on-Sea Special Drainage District Act, 1880. (43 & 44 Vict., c. xlii.)
CONWAY BOROUGH - -	The Conway Bridge Act, 1878. (41 Vict., c. lxviii.)
DERBY BOROUGH - -	The Derby Improvement Act, 1879. (42 & 43 Vict., c. ccxv.)
EASTBOURNE LOCAL GOVERNMENT DISTRICT.	The Eastbourne Improvement Act, 1879. (42 & 43 Vict., c. xcvii.)
GRANTHAM BOROUGH -	The Grantham Extension Act, 1879. (42 & 43 Vict., c. lxxiii.)
HINCKLEY LOCAL GOVERNMENT DISTRICT.	The Hinckley Local Board Gas Act, 1880. (43 & 44 Vict., c. clvii.)
HUDDERSFIELD BOROUGH	The Huddersfield Improvement Act, 1880. (43 & 44 Vict., c. xcix.)
HULL BOROUGH - -	The Hull (Corporation) Electric Lighting Act, 1880. (43 & 44 Vict., c. cxxv.)
KING'S LYNN BOROUGH -	The King's Lynn Corporation Act, 1880. (43 & 44 Vict., c. cxlii.)
LANCASTER BOROUGH -	The Lancaster Corporation Act, 1880. (43 & 44 Vict., c. lxxvii.)
LEICESTER BOROUGH -	The Leicester Corporation Act, 1879. (42 & 43 Vict., c. cc.)
LIVERPOOL BOROUGH -	The Liverpool (Corporation) Electric Lighting Act, 1879. (42 & 43 Vict., c. ccxiii.)

Boroughs, Districts, and Parishes.	Titles of Local Acts.
LIVERPOOL BOROUGH -	The Liverpool Corporation Waterworks Act, 1880. (43 & 44 Vict., c. cxliii.)
LLANDISILIO PARISH -	The Llandisilio Commissioners Act, 1879. (42 & 43 Vict., c. ccviii.)
LLANDUDNO IMPROVEMENT ACT DISTRICT.	The Llandudno Improvement Act, 1879. (42 Vict., c. xviii.)
MANCHESTER BOROUGH -	The Manchester Corporation Waterworks Act, 1879. (42 Vict., c. xxxvi.)
NELSON LOCAL GOVERNMENT DISTRICT.	The Nelson Local Board Act, 1879. (42 & 43 Vict., c. lxxxix.)
NORWICH BOROUGH -	The Norwich Improvement Act, 1879. (42 & 43 Vict., c. cxxv.)
NOTTINGHAM BOROUGH -	The Nottingham Improvement Act, 1879. (42 & 43 Vict., c. cciv.)
OLDHAM BOROUGH - -	The Oldham Improvement Act, 1880. (43 & 44 Vict., c. cxlvii.)
OVER DARWEN BOROUGH-	The Over Darwen Improvement Act, 1879. (42 & 43 Vict., c. ccii.)
PEMBERTON LOCAL GOVERNMENT DISTRICT.	The Pemberton Local Board Water Act, 1879. (42 Vict., c. xxvi.)
PRESTON BOROUGH - -	The Preston Improvement Act, 1880. (43 & 44 Vict., c. cxviii.)
RAWMARSH LOCAL GOVERNMENT DISTRICT.	The Rawmarsh Local Board Act, 1879. (42 & 43 Vict., c. li.)
ROCHESTER BOROUGH -	The Rochester City Improvement Act, 1880. (43 & 44 Vict., c. cxix.)
ROTHERHAM BOROUGH -	The Rotherham Borough Extension and Sewerage Act, 1879. (42 & 43 Vict., c. cxci.)

Boroughs, Districts, and Parishes.	Titles of Local Acts.
SAINT PANCRAS PARISH-	The Saint Pancras Loans Act, 1879. (42 Vict., c. xxxix.)
STAFFORD BOROUGH -	The Stafford Corporation Act, 1880. (43 & 44 Vict., c. lxxiii.)
STRATFORD-UPON-AVON BOROUGH.	The Stratford-upon-Avon Borough Act, 1879. (42 & 43 Vict., c. cxix.)
WAKEFIELD BOROUGH -	The Wakefield Corporation Waterworks Act, 1880. (43 & 44 Vict., c. lvii.)
WARRINGTON BOROUGH -	The Warrington Corporation Gas Act, 1877. (40 Vict., c. xxxiii.)
WARRINGTON BOROUGH - -	The Warrington Corporation Lighting and Improvement Act, 1879. (42 & 43 Vict., c. xcii.)
WEST KENT MAIN SEWERAGE DISTRICT.	The West Kent Main Sewerage (Amendment) Act, 1879. (42 & 43 Vict., c. lxviii.)
WEYMOUTH AND MELCOMBE REGIS BOROUGH.	The Weymouth and Melcombe Regis Bridge Act, 1879. (42 Vict., c. xii.)
WHITEHAVEN IMPROVEMENT ACT DISTRICT.	The Whitehaven Town and Harbour Act, 1879. (42 & 43 Vict., c. clxxxv.)
WIGAN BOROUGH - -	The Wigan Improvement Act, 1880. (43 & 44 Vict., c. cxxvii.)
WOMBWELL LOCAL GOVERNMENT DISTRICT.	The Wombwell Local Board Gas Act, 1879. (42 & 43 Vict., c. cxxiv.)

SCHEDULE (B.)

Return as to Sinking Fund.

Name of authority _____

Local Act under which the return is made _____

Period for which the return is made; viz., year ending _____

Amount of loan or annuity raised or created under the Local Act during the year _____

Amount of loan or annuity in respect of which the sinking fund is set aside_____

Rate of interest, if any, on which payments into the sinking fund are based_____

Amount, if any, realized by re-sales of surplus property during the year_____

Date of commencement of the sinking fund_____

Amount set aside for the purpose of the Sinking Fund during the year.			Description of Securities in which the same has been invested.	Nominal value of such securities.			Rate of Interest payable thereon.			Purposes to which any portion of the Sinking Fund has been applied during the year.	Amount so applied.			Total amount of Sinking Fund (*a*) invested (*b*) not invested at the end of the year.						Description of Securities in which invested.	Rate of Interest payable thereon.		
														a.			*b.*						
£	*s.*	*d.*		£	*s.*	*d.*	£	*s.*	*d.*		£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*		£	*s.*	*d.*
			Totals..							Totals													

Dated_____day of_____18 __.

*Signed*_____ *Clerk.*

(*or other Officer required to make the return.*)

N.B.—If more than one sinking fund is required to be provided under the Act, a separate return should be made for each, and each return should be so marked as to show to which of the sinking funds provided under the Local Act it relates. If the sinking fund is required for the redemption of annuities, the capitalised value of the annuities should be stated.

* The amount stated to be invested should be the nominal value of the securities.

Return as to Instalments or Appropriations.

Name of authority_____

Local Act under which the return is made_____

Period for which the return is made; viz., year ending_____

Amount of loan raised under the Local Act during the year_____

Amount of loan in respect of which the instalments or appropriations are paid_____

Number of years in which the loan is to be paid off_____

Rate of interest payable on the loan_____

Whether to be repaid by yearly or half-yearly instalments or appropriations_____

Amount, if any, realized by re-sales of surplus property during the year _____

Date on which the first instalment or appropriation became due_____

Instalment of Principal paid off or amount appropriated during the year.			Amount of Interest paid during the year.			Amount of Principal and Interest paid during the year.			Amount of loan paid off.			Amount of loan remaining unpaid.		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.

Dated the___ day of_____18___.

*Signed*_____ *Clerk.*

[*or other Officer required to make the Return.*]

N.B.—If more than one loan is being repaid by instalments or appropriations under the Act, a separate return should be made for each, and such return should be so marked, as to show to what loan it relates.

Given under the seal of office of the Local Government Board, this twenty-fifth day of August, in the year one thousand eight hundred and eighty-one.

L.S.

J. G. DODSON,
President.

HUGH OWEN,
Assistant Secretary.

3. *Order prescribing forms of Return as to Sinking Fund or Instalments under Provisional Orders of* 1880.

To the Mayor, Aldermen, and Burgesses of the several boroughs named in the Schedules (A.) and (B.) to this Order ;—

To the local boards for the several Local Government districts, and the Improvement Commissioners for the several Improvement Act districts named in the said Schedule (A.) ;—

To the Local Board for the Local Government district of Herne Bay ;—

And to all others whom it may concern.

WHEREAS by certain Acts as altered and amended by the Provisional Orders referred to in the Schedule (A.) to this Order, certain returns are required to be transmitted to the Local Government Board, and verified by statutory declaration, if so required by them, with respect to certain sinking funds and instalments to be set apart and paid under the provisions of the said Acts, or of the said Provisional Orders, or of the said Acts as altered and amended by the said Provisional Orders ;

And whereas by the Provisional Orders referred to in the Schedule (B.) to this Order, certain returns are required to be transmitted to the Local Government Board, in such form as may be prescribed by that Board, and verified by statutory declaration, if so required by them, with respect to certain sinking funds and instalments to be set apart and paid in respect of moneys borrowed under the provisions of the said Provisional Orders ;

And whereas by the Local Government Board's Provisional Orders Confirmation (Eastbourne, &c.) Act, 1880, a return is required to be transmitted to the Local Government Board, and verified by statutory declaration, if so required by them, with respect to certain sinking funds and instalments to be set apart and paid by the Herne Bay Local Board under the provisions of that Act;

And whereas the said Provisional Orders, respectively addressed to the Urban Sanitary Authorities for the boroughs and districts mentioned in column 1 of the said Schedules, and bearing the dates mentioned in column 2 of such Schedules,

were duly confirmed by the Acts named in column 3 of the Schedules;

Now, THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, hereby order that, until we by order otherwise direct, the returns required as aforesaid to be transmitted to us, as regards the sums of money to be set apart for a sinking fund, or to be paid off by instalments, in pursuance of the Acts above-referred to or of the said Provisional Orders, shall be in the forms respectively set forth in Schedule (C.) to this Order, and shall be verified by statutory declaration.

In this Order the words "boroughs" and "burgesses" have the same meaning as in the Act passed in the 5th and 6th years of the reign of his late Majesty King William the Fourth, intituled "An Act to provide for the regulation of municipal corporations in England and Wales."

SCHEDULE (A.)

1. Boroughs and Districts.	2. Dates of Provisional Orders.	3. Titles of Confirming Acts.
ABINGDON BOROUGH -	1 May, 1880	The Local Government Board's Provisional Orders Confirmation (Abingdon, &c.) Act, 1880.
BRITON FERRY LOCAL GOVERNMENT DISTRICT.	27 April, 1880	
BURNLEY BOROUGH -	28 April, 1880	
MIDDLETON AND TONGE IMPROVEMENT ACT DISTRICT.	10 May, 1880	
SOUTHPORT BOROUGH	4 May, 1880	
BARNSLEY BOROUGH -	15 May, 1880	The Local Government Board's Provisional Orders Confirmation (Alnwick Union, &c.) Act, 1880.
ABERAVON BOROUGH -	17 April, 1880	The Local Government Board's Provisional Orders Confirmation (Aberavon, &c.) Act, 1880.
ASHTON-IN-MAKERFIELD LOCAL GOVERNMENT DISTRICT	2 April, 1880	
LINCOLN BOROUGH -	15 April, 1880	
OSWALDTWISTLE LOCAL GOVERNMENT DISTRICT.	23 April, 1880	
ST. ALBAN BOROUGH -	19 April, 1880	
BETHESDA IMPROVEMENT ACT DISTRICT.	10 May, 1880	The Local Government Board's Provisional Orders Confirmation (Bethesda, &c.) Act, 1880.
HAWORTH LOCAL GOVERNMENT DISTRICT.	20 May, 1880	
ROCHDALE BOROUGH -	20 May, 1880	
ROTHERHAM BOROUGH	20 May, 1880	
STOCKTON-ON-TEES BOROUGH	29 April, 1880	
MIDDLESBROUGH BOROUGH		
YORK BOROUGH - -	20 May, 1880	

SCHEDULE (B.)

1. Boroughs.	2. Dates of Provisional Orders.	3. Titles of Confirming Acts.
CONWAY BOROUGH -	17 April, 1880	The Local Government Board's (Gas) Provisional Order Confirmation Act, 1880.
KINGSTON-UPON-HULL BOROUGH.	27 May, 1880	The Local Government Board's Provisional Orders Confirmation (Kingston-upon-Hull, &c.) Act, 1880.

SCHEDULE (C.)

Return as to Sinking Fund.

Name of sanitary authority_____
Act or Provisional Order under which the return is made ____
Period for which the return is made : viz., year ending_____
Amount of loan in respect of which the sinking fund is set aside_____
Number of years in which the loan is to be paid off_____
Rate of interest, if any, on which payments into the sinking fund are based_____
Amount, if any, realized by re-sales of surplus property during the year_____
Date of commencement of the sinking fund_____

Amount set aside for the purpose of the Sinking Fund during the year.	Description of Securities in which the same has been invested.	Nominal value of such securities.	Rate of interest payable thereon.	Purposes which any portion of the Sinking Fund invested has been applied during the year.	Amount so applied.	Total amount of Sinking Fund (*a.*) invested (*b.*) not invested at the end of the year.		Description of securities in which invested.	Rate of interest payable thereon.
						a.	*b.*		
£ s. d.		£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.		£ s. d.
	Totals..			Totals..					

Dated the _____ day of _____ 188____.

Signed _____ *Clerk.*

[*or other Officer required to make the Return.*]

N.B.—If more than one sinking fund is required to be provided, a separate return should be made for each.

* The amount stated to be invested should be the nominal value of the securities.

Return as to Instalments.

Name of sanitary authority _____

Act of Provisional Order under which the return is made _____

Period for which the return is made: viz., year ending _____

Amount of loan in respect of which the instalments are paid ____

Number of years in which the loan is to be paid off _____

Rate of interest payable on the loan _____

Whether to be repaid by yearly or half-yearly instalments _____

Amount, if any, realized by re-sales of surplus property during the year _____

Date on which the first instalment became due _____

Amount of Instalment of Principal paid off during the Year.			Amount of Interest paid during the Year.			Amount of Principal and Interest paid during the Year.			Amount of Loan paid off.			Amount of Loan remaining unpaid.		
£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*

Dated the _____ day of _____ 188___

Signed _____ *Clerk.*

[*or other Officer required to make the return.*]

N.B.—If more than one loan is being repaid by instalments, a separate return should be made for each.

Given under the seal of office of the Local Government Board this twenty-fifth day of August, in the year one thousand eight hundred and eighty-one.

L.S.

J. G. DODSON,
President.

HUGH OWEN,
Assistant Secretary.

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4. *Order prescribing forms of Return as to Loans Funds under Local Acts and a Provisional Order of* 1880.

To the Mayor, Aldermen, and Burgesses of the respective boroughs of Birmingham and Nottingham;—

To the Mayor, Aldermen, and citizens of the City of Liverpool;—

And to all others whom it may concern.

WHEREAS by a Provisional Order of the Local Government

Board relating to the borough of Birmingham, and dated the 20th day of May, 1880 (which was duly confirmed by the Local Government Board's Provisional Orders Confirmation (Bethesda, &c.) Act, 1880, (43 & 44 Vict., c. clxxviii.), and by the Liverpool Corporation Loans Act, 1880 (43 & 44 Vict., c. ccvii.), and the Nottingham Corporation Loans Act, 1880 (43 & 44 Vict., c. ccvii.), certain returns are required to be transmitted by the respective treasurers of the said borough of Birmingham, the said City of Liverpool, and the said borough of Nottingham, to the Local Government Board, in such form as may be prescribed by that Board, and verified by statutory declaration if so required by them, with respect to certain loans funds, to be established under the provisions of the said Provisional Order and of the said local Acts;

NOW, THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, hereby order that, until we by order otherwise direct, the returns required to be transmitted to us as regards the said loans funds to be established in pursuance of the said Provisional Order and of the said local Acts, shall be in the form set forth in the Schedule to this Order, and shall be verified by statutory declaration.

SCHEDULE.

Return as to Loans Fund.

1. Name of corporation.
2. Act or Provisional Order under which the return is made.
3. Period for which the return is made, viz., year ending
4. Amount of corporation stock created during the year.
(*a*) 5. Rate of interest payable thereon.
6. Amount of stock created during the year for purposes other than the repayment of borrowed moneys, the redemption of annuities, or the conversion of existing debt.
(*b*) 7. Purposes for which stock has been so created.

(*a*.) If some of the stock has been issued at one rate of interest, and some at another, state the amount issued at each rate.

(*b*.) Here state the amount created for every such purpose, and give reference in each case to the Act of Parliament authorizing the borrowing of the money.

8. Amount of stock created during the year for the repayment of borrowed moneys, the redemption of annuities, or the conversion of existing debt.

(*c*) 9. Purposes for which such moneys were borrowed or annuities or debt created.

10. Amounts, if any, of sinking or other funds set aside for the repayment of such moneys respectively, or the redemption of such annuities or debt respectively, and remaining unapplied at the date of the creation of the stock.

(*d*) 11. Amount, if any, realized during the year by the sale of land or other property on the security of which the stock is charged.

12. Amount, if any, of premiums received by the corporation in respect of stock issued above par during the year.

13. Total amount paid into the loans fund during the year for the purpose of paying dividends on the stock.

14. Total amount paid into the loans fund during the year for the purpose of redeeming the stock.

15. Particulars of the contributory payments from the several funds and out of the several accounts, revenues, and rates charged with the payment of the same, paid into the loans fund during the year for the purpose of paying dividends on the stock.

16. Particulars of the contributory payments from the several funds and out of the several accounts, revenues, and rates charged with the payment of the same, paid into the loans fund during the year for the purpose of redeeming the stock.

(*e*) 17. Amount paid into the loans fund during the year in respect of the sale of land or other property on the security of which the stock is charged.

(*c.*) Here state the amount borrowed, or the amount of annuities created for every such purpose; give reference in each case to the Act of Parliament authorizing the borrowing of the moneys, and the creation of the annuities; and state the several dates when such moneys were originally borrowed and such annuities were originally created.

(*d.*) In the returns to be made under the Birmingham Order, this amount should include any sums realized by way of fine or premium on leases.

(*e.*) In the return to be made under the Birmingham Order, this amount should include any sums paid into the fund, which have been received by way of fine or premium on leases.

18. Amount so paid in respect of sinking funds remaining unapplied at the date of the creation of the stock.
19. Amount so paid in respect of premiums received on stock issued above par.
20. Amount which has accumulated during the year on the investments of the loans fund.
21. Amount applied during the year for the purpose of paying dividends on the stock.
22. Amount so applied for the purpose of redeeming the stock.
(*f*) 23. Investments of the loans fund made during the year.
(*g*) 24. Rate of interest payable thereon.
(*f*) 25. Investments of the loans fund remaining at the end of the year.
26. Total amount of stock remaining unredeemed at the end of the year.
(*g*) 27. Rate of interest payable thereon.

Dated the_____day of_____.

(Signed)_____
Treasurer.

Given under the seal of office of the Local Government Board, this seventeenth day of June, in the year one thousand eight hundred and eighty-one.

J. G. DODSON,
President.

L.S.

HUGH OWEN, JUN.,
Assistant Secretary.

(*f*.) Here state the amounts invested in each description of security.

(*g*.) If some of the stock carries one rate of interest, and some another, state the amounts carrying such rates respectively.

5. *Order with respect to the Register of Securities to be kept by Poor Law Authorities.*

To the Guardians of the Poor of the several unions in England and Wales ;—

To the Boards of Management of the several district schools formed under the Poor Law Amendment Act, 1844, and the Acts amending the same ;—

To the Boards of Management of the several asylum districts formed under the Metropolitan Poor Act, 1867 ;—

And to all others whom it may concern.

WHEREAS by section 14 of the Divided Parishes and Poor Law Amendment Act, 1882, herein-after referred to as "The Act of 1882," it is enacted as follows :—

"The following enactments are hereby repealed, viz :"—

* * * * * * *

"So much of section six of the Union and Parish Property "Act, 1835, and of the Schedule to that Act, and so "much of section six of the Parish Property and "Parish Debts Act, 1842, as relate to the transmission "to the Poor Law Commissioners, and the approval, "sealing, and registration by such commissioners of "deeds or other instruments, except as regards deeds "or instruments executed prior to the date of this "Act ; and nothing in the said Acts, or in the Poor "Law Amendment Act, 1834, or in the Union Loans "Act, 1869, or the Acts amending or extending those "Acts respectively, shall be deemed to require the "approval or registration by the Local Government "Board of any such deed or instrument as aforesaid, "or of any lease or agreement for lease made or "entered into under the authority of those Acts, or "any of them."

"Provided that the guardians or managers, as the case "may be, shall keep a register of the securities in "respect of all sums borrowed by them, in such forms "and subject to such regulations as to inspection or "otherwise as the Local Government Board may, from "time to time, prescribe."

NOW, THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf,

hereby order that until we otherwise direct, the following regulations shall be in force, namely :—

Article I. The register of securities, required by the above-cited enactment to be kept, shall be in the form prescribed in the Schedule to this Order.

Article II. With respect to securities executed by the guardians or managers, after the passing of the Act of 1882, it shall be the duty of the clerk to make the entries required in columns 1 to 13, both inclusive, of the said register, and to authenticate such entries by placing his signature in column 14 of the said register. Such entries shall be made and authenticated as aforesaid in the case of every security so executed before the date of this Order, as early as practicable; and in the case of every security so executed on or after the date of this Order, after the same has been executed and before it is delivered to the lender.

Article III. With respect to every transfer of any security, which shall have been or shall be executed by the guardians or managers, as the case may be, after the passing of the Act of 1882, it shall be the duty of the clerk, within seven days after the same shall be produced to him by or on behalf of the transferee, to make the entries required in columns 16, 17, and 18 of the said register, and to authenticate such entries by placing his signature in column 19 of the said register.

Article IV. At the meeting of the guardians or managers, as the case may be, held next after any entries required to be made under Articles II. and III. of this Order have been duly made and authenticated as aforesaid, it shall be the duty of the clerk to submit the said register to the guardians or managers, and the chairman shall, at such meeting, place his signature, in the case of securities executed by the guardians or managers, in column 15 of the said register, and in the case of transfers, in column 20 of the said register.

Article V. When the final instalment due on any security included in the said register has been paid, it shall be the duty of the clerk to enter in column 21 of the said register the date of the payment of such final instalment, and to place his signature at the foot of such entry.

Article VI. No notice of any trust expressed, implied, or constructive, in relation to any security, shall be entered in the said register.

Article VII. The said register shall remain in the custody

of the clerk, and shall be produced by him to the district auditor at every audit.

Article VIII. The clerk shall allow the said register to be open at all reasonable times to the inspection of any guardian or manager, as the case may be, and of any other person, and any such person may make copies of or extracts from the entries in the register in relation to any security or transfer included therein without fee or reward.

Article IX. In this Order—

The term "union" means an union of parishes under a general or local Act, with a separate board of guardians, and includes a parish or place for which there is a separate board of guardians.

The term "guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or any other body of persons performing, under any local Act, the like functions as guardians under the Poor Law Amendment Act, 1834.

The term "managers" means members of boards of management of district schools, formed under the Poor Law Amendment Act, 1844, and amending Acts, or members of boards of management of asylum districts formed under the Metropolitan Poor Act, 1867.

The term "clerk" means the clerk to the guardians or the clerk to the managers, as the case may be.

Given under the seal of office of the Local Government Board, this seventh day of December, in the year one thousand eight hundred and eighty-two.

J. G. DODSON,
President.

L.S.

HUGH OWEN,
Assistant Secretary.

Date of publication in the London Gazette,
8th December, 1882.

APPENDIX (6.)

Reg. v. *The Churchwardens of Wigan and Others.*[1]

In this case, the churchwardens of Wigan had borrowed £4,540 in 1849, from the Public Works Loan Commissioners, under the 5 Geo. 4, c. 36, which empowered them "to make such annual or half-yearly rates for the repayment of the sums so advanced in such proportions, and at such times *as shall be directed and appointed by the said commissioners on that behalf*, and to assign the rates so to be made as aforesaid as a security for the repayment of the sums so advanced, in such manner and form as the said commissioners shall direct and appoint, *and so as to secure the repayment of all sums so advanced, with interest thereon, at and after the rate of £4 per cent. per annum by annual or half-yearly instalments on the amount of the principal money advanced, within twenty years at furthest from the advancing of any such sums respectively.*" Five instalments of the money were paid; but after 1853, no payment was made, and no proceedings beyond applications for the money took place on the part of the commissioners until the year 1867, when the Court of Queen's Bench, upon their application, granted a rule calling upon the churchwardens to show cause why a writ of *mandamus* should not issue, commanding them to make a rate or rates for payment of £4,841 15*s.* 10*d.*, interest and instalments due on the principal moneys advanced. This rule was enlarged in order that a special case might be stated for the opinion of the court. Upon the argument of the case, the court ordered a *mandamus* to issue, commanding the churchwardens to make, levy, and collect a rate for payment of the sum of £227, one year's instalment of the loan of £4,540 due on the 17th of September, 1854, and interest on the balance of the principal sum. Returns were made to the *mandamus*, which were demurred to. The Court of Queen's Bench gave judgment for the prosecutors on the demurrer, and ordered a preremptory *mandamus* to issue. The Court of Exchequer

[1] L. R. 1. App. Cas. 4 L. (E) 611; 35 L. T. 381.

decided unanimously that it ought not to have issued; and on appeal to the House of Lords, the judgment of the Court of Exchequer was affirmed, and the appeal dismissed with costs.

In delivering judgment, Lord Chelmsford, in discussing the terms of the mortgage by which the money was secured, is reported to have said: "It appears to me perfectly clear that any stipulation for the payment of the loan otherwise than is prescribed by the Act, cannot possibly have any effect." With respect to the question, whether or not, the *mandamus* ought to have issued, he said: "That question depends entirely upon the Act of Parliament. The commissioners could only make loans on certain conditions. The churchwardens could only borrow upon certain conditions. The condition upon the commissioners is that they must lend on security of rates for the repayment of annual or half-yearly instalments within twenty years at the furthest. They have no power to lend on any other terms. The condition on the churchwardens is that they must borrow on the terms of repaying the loan by annual or half-yearly rates within twenty years. They can borrow upon no other terms. The intention of the Act with respect to loans appears to be that the ratepayers in the parish, a fluctuating body, should be chargeable in twenty years with rates in discharge of the loan, but that ratepayers after twenty years should not be liable, which could not be unless after twenty years the rates were no longer chargeable with repayment of the loan. This is carefully provided for in the direction as to annual payments to be made in twenty years. Now, the *mandamus* issued in 1871 is to levy a rate for the payment of an instalment due on the 14th of September, 1854. This rate must necessarily be levied more than twenty years from the advancing of the loan in 1849, and, as it appears to me, in the teeth of the Act. If this can be supported, it will follow that the churchwardens may be called upon year by year for fifteen years to levy rates for the payment of the instalments, for it was not considered by the Queen's Bench, that the whole arrears can be required to be discharged by a single rate, which, however, would be equally objectionable. I confine myself entirely to the Act, upon which the whole question turns, and looking at that alone it seems to me to be perfectly clear that not by implication only, but by the most express language, it prevents a rate for the repayment of the loan by the commis-

sioners, being made after twenty years from the time when the money was advanced."

In the same case Lord Hatherley said: "The question we have really to consider is whether or not that which the churchwardens were directed to do by the *mandamus* in question was a thing which they could by law be ordered under any circumstances to do? That must depend entirely upon the authority derived from the special Act of Parliament under which they professed to act. They could do nothing except under this Act; let us see what the Act authorizes them to do. They were authorized to assign the rates, and they were authorized to assign them in such a manner, and the instalments of the loans were to be payable in such proportions, and at such times, as should be directed by the commissioners. But both the commissioners and the churchwardens were limited, as it appears to me, plainly and distinctly by the close of the section, which tells you in what manner the repayment was to be secured. It was to be repaid with interest thereon by instalments spread over a 'period of twenty years at furthest' from the advance. It appears to me that they could, therefore, give no security beyond a security for the repayment within that particular time; they could give no security which should postpone the repayment, by instalments or otherwise, to any later period than twenty years from the advance.

"The case is clear of all the authorities which have been cited,[1] because they appear to have been decided upon the simple ground that if there is an express power of charging indefinitely the rates, that power will not be diminished, because there is a provision made for the payment of the debt in a certain manner, there being no proviso that if the debt is not paid in that manner, it is to be acquitted or discharged. If there is a charge upon the whole of the rates indefinitely and in perpetuity, then the mode of making the payment which is pointed out will not invalidate the charge. But if you find in an Act of Parliament like this one particular power of effecting the

[1] The authorities cited were—
Cortis v. *Kent Waterworks Company* (7 B. & C. 314).
Reg. v. *Churchwardens of St. Michael, Southampton* (6 E. & B. 807.)
Reg. v. *Hurstbourne Tarrant* (Ell. Bl. & Ell. 246).
Rex. v. *St. Michael, Pembroke* (5 A. & E., 603; 1 N. & P. 69.)
Rex. v. *Dursley* (5 A. & E. 10).
Piggott v. *Bearblock* (4 Moore's P.C. 399).
Harrison v. *Stickney* (2 H. of L. cas. 108). As to some of these cases, see pages 20 to 23 and 38.

object, and that power cannot now be further pursued, because the time has been allowed to pass, then I apprehend that all that one can say is, that the security is not one which will carry and proceed further than the very form and extent in which it is framed, which is in pursuance of the Act, and that, therefore, the commissioners, having been directed to take steps to provide for the payment of these sums as they become due, cannot now, in the year 1876, obtain payment of those instalments which were due under the deed in 1854."

Reg. v. *Sir Charles Reed.*[1]

This case, which came before Lord Justices Brett, Cotton, and Thesiger, in the Court of Appeal, on an appeal against a decision of the Queen's Bench Division, raised an important question as to the borrowing powers conferred on school boards by the Education Acts. The School Board for London had, from time to time, in consequence of the funds received from the rating authorities being insufficient to defray the expenses of the school board, obtained temporary advances of large amount from the Bank of England, and the interest in respect of these advances had been charged in the accounts of the school board. Mr. H. L. Roberts, the district auditor, held that the payment of interest on the moneys thus borrowed was an unlawful charge on the funds of the board, and at his audit for the half-year ended at Lady-day, 1878, he disallowed a sum of £83 11*s.* 2*d.*, the interest charged for a period of less than three weeks, on the understanding that the question of the legality of such payments should, in connexion with this disallowance, be raised in the High Court of Justice. The reasons assigned by the auditor for the disallowance were as follows:—

"I made such disallowance for the following reasons:—1. Because such sums of money were not borrowed with the consent of the Education Department. 2. Because such sums of money were not borrowed or advanced in compliance with the requirements of, and with the consent required by, the statute 36 & 37 Vict., c. 86, s. 10. 3. Because the said temporary loans were either wholly or partially applied and used for the general or current expenditure of the board, for

[1] L.R. 5 Q.B. 483; 49 L.J. Q.B. 600; 42 L.T., N.S. 835; 28 W.R. 787.

which purpose school boards are not authorized to borrow money. 4. Because the said school board had not obtained, under the provisions of sections 53 and 54 of the statute, 33 & 34 Vict., c. 75, adequate sums to meet the deficiency of the school fund, and they have consequently used or employed moneys raised by temporary and other loans to defray the expenses of the school board. 5. Because the said school board had not any authority in law to borrow or obtain such loans, and to pay or charge in their accounts any amount for interest upon such loans. 6. Because the statutes, 33 & 34 Vict., c. 75, and 36 & 37 Vict., c. 86, have provided means whereby school boards may supply themselves with the necessary funds for carrying out the duties entrusted to school boards; and the said sums of money so borrowed have not been raised in compliance with those provisions, and the said interest is not such interest as the school boards may charge upon the school fund of the district by virtue of section 10 of the 36 & 37 Vict., c. 86." The auditor further surcharged the sum of £83 11*s.* 2*d.* upon Sir Charles Reed, the chairman of the school board, because he authorized the making of the illegal charge or payment.

In July, 1879, application was made to the Queen's Bench Division for a *certiorari* to remove the certificate of the auditor into the court for the purpose of its being quashed.

Section 53 of the Elementary Education Act, 1870 (33 & 34 Vict., c. 75), provides that the expenses of the school board shall be paid out of a fund called the school fund, and that there "shall be carried to the school fund all moneys received as fees from scholars, or out of moneys provided by Parliament, or raised by way of loan, or in any manner whatever received by the school board," and that any deficiency shall be raised by the school board as provided by that Act. Section 54 enacts that any sum required to meet any deficiency in the school fund, whether for satisfying past or future liabilities, shall be paid by the rating authorities out of the local rates. The rating authorities in the metropolis are the vestries and the district boards. The school board are to serve their precept on the rating authority requiring such authority to pay the amount specified therein to the treasurer of the school board out of the local rate, and the rating authority are to pay the amount accordingly. If the rating authority have no funds in their hands in respect of the local rate, the authority must, or if they

have paid the amount, then for the purpose of reimbursing themselves they may, notwithstanding any limit under any Act of Parliament or otherwise, levy the local rate, or any contributions thereto, or any increase of the rate or contributions, and for that purpose they have the same power of levying a rate and requiring contributions as they have for the purpose of defraying expenses to which the local rate is ordinarily applicable.

By section 10[1] of the Elementary Education Act, 1873, express powers of borrowing are given to school boards for repaying expenses incurred (*a*) in providing or enlarging a school-house, or (*b*) in paying off any debt charged on a school-house provided by them, or on any land acquired by them, by gift, transfer, purchase or otherwise for the purposes of that Act, or (*c*) in any works of improving or fitting up a school-house, which in the opinion of the Education Department, ought by reason of the permanent character of such works to be spread over a term of years.

In the Queen's Bench division, Sir H. James, Q.C., and Mr. Jeune appeared for Sir Charles Reed, and Mr. McIntyre, Q.C., and Mr. A. Glen for the auditor. The Court (the Lord Chief Justice, Mr. Justice Lush, and Mr. Justice Manisty), without calling on the counsel for Sir Charles Reed, made the rule absolute for quashing the certificate of the auditor.

Mr. Justice Lush said: The Act clearly comtemplates a deficiency in the school fund. There may be a temporary deficiency unless the school board, in issuing their precepts, call for such amounts as will cover all contingencies. There is nothing in the statute to prohibit borrowing for a temporary deficiency, and surely such a prohibition is necessary to support the contention that they cannot borrow under such circumstances. If the school board have not thus the power to borrow, are all the schools to be stopped when the funds fail?

The Lord Chief Justice: Section 53 requires money "raised by way of loan" to be carried to the school fund. That section, by implication, gives a general power of borrowing. How can they carry money raised by way of loan to the school fund, unless they can borrow? This is an implied power to borrow. It would be a very arbitrary construction to limit the effect of the words "money raised by way of loan" to moneys

[1] The provisions of this section will be found set out on pages 189 to 191.

so raised on mortgage of the rates. It would be practically impossible to carry on the business of the board, without occasional borrowing to meet temporary deficiencies. The school board would be placed in great difficulty if they had no such power. They desire not to levy money more than is necessary, and in their anxiety not to exceed, they may fall short of what is required. Are they to have no power to borrow such money as may be necessary? It is really too clear for argument.

In the Court of Appeal, Sir H. Giffard, Q.C. (Mr. McIntyre, Q.C., and Mr. Ainslie with him,) appeared for the auditor; and Sir H. James, Q.C. (Mr. Jeune with him), for Sir Charles Reed.

Sir H. Giffard argued that the Education Act provided a complete code of finance for school boards, and that the only powers of borrowing which they had, were those given by section 10 of the Act of 1873. A power to borrow in a certain way, when an express power to borrow was necessary amounted to prohibition of any other. *Expressio unius est exclusio alterius.* Interest implies a loan; and as there was no power to borrow except in accordance with the provisions of section 10, there was no power to charge the interest on the money borrowed. If the school board wanted ready money they must have recourse to the rating authorities.

Mr. Jeune, for Sir Charles Reed: The school board had power to obtain temporary advances of moneys already being raised by rates, which was quite distinct from a power to borrow money in aid of, and in excess of the rates, and in order to supply a "deficiency" in the rates. The question was not whether this power of borrowing was given, but whether it was taken away; for corporations had it impliedly so far as necessary. There was a recognized distinction between obtaining such advances from a banker, and borrowing money in the ordinary sense of raising money on loan. The necessity for such advances was obvious. It was impossible for the board to tell beforehand the sums they might receive from fees, or how much of the rates would be received in a certain time; and in the meanwhile, from day to day, and from week to week, they must have in their hands large funds for current expenses. The Act expressly said that the school fund was to be composed in part of "money raised on loan," which implied a power to borrow, or a recognition of it, and need not be limited to loans raised in the way prescribed. The power was implied in the obvious necessity for it, and was recognized

in that general enactment. The board have ordered a sufficient sum to be raised, and it has not come to their hands. That is the case which has arisen; it is not a case of "deficiency" of funds. The board have a power to borrow money in that way to any extent.

Lord Justice Brett: Can they borrow £100,000 at 6 or 7 per cent. by way of "temporary advance?"

Lord Justice Cotton: The effect may be to anticipate the rates for a year or more. It may be thought convenient for some reasons to do so, in order to avoid the odium of high rates in view of an election, and throw the burden on their successors.

Mr. Jeune: I so understand the Act. The necessity for temporary advances must constantly occur, and the only alternative was raising by rates far more than necessary, so as always to keep a large balance at the banker's. If it had been intended to prohibit this, there would have been an express prohibition of it.

Lord Justice Cotton: The board may issue their precept for "future liabilities" as well as present.

Mr. Jeune: No doubt they may; but if they raise money sufficient to meet all possible contingencies, there will be a higher rate and a heavier burden than necessary.

The Solicitor-General: The question really is as to a power in the board to borrow money other than under section 10 of Act of 1873. If there is such power, why is it to be limited to the loans "for temporary purposes?" Where is the line to be drawn? There is no such distinction in the Act. There is a power to borrow or there is not. Such a power was claimed, and it was avowed that the necessity for it was continually arising; so that it appeared to be claimed as the ordinary way of carrying on the business of the board. As to "working capital," it was supplied by the school fund, "which comprised rates and fees" and ought to be kept up properly from year to year.

The court took time to consider their judgment, and on the 13th of May, 1880, the following judgment of the court was read by Lord Justice Cotton:—

This is an appeal from the Queen's Bench Division, and the question is, whether or no a school board has, under the Act of the 33rd and 34th Vict., c. 75, and the amending Act, 36th and 37th Vict., c. 86, power to borrow money for pur-

poses, and in a manner not within the 10th section of the later Act, and to charge the ratepayers with interest, which they, the school board, have paid under the contract of loan. The Queen's Bench Division decided that they have such power, and from that decision there has been an appeal to this court. The respondent in the particular case is chairman of the London School Board, but the Acts referred to, and the question which is raised, apply equally to all school boards. The question arises in this way: In the accounts of the London School Board for the half-year ending Lady-day, 1879, there was a charge of £83 11*s.*, for interest paid to the Bank of England, the treasurer of the school board, upon sums advanced as temporary loans, and amounting in the whole to £40,000 This the auditor for the metropolitan district disallowed as an illegal charge or payment, and he surcharged the same on Sir Charles Reed, the chairman of the board. The Queen's Bench Division, on an application made to them, quashed this disallowance and surcharge. The school boards are constituted under the Act of the 33rd and 34th Vict., c. 75. Sections 53 to 58 of that Act direct how the expenses of the school board are to be provided for, and of these, section 57 gives an express power to borrow for certain purposes and in a certain manner. This section was repealed by section 10 of the later Act, which gives a similar but slightly varied power of borrowing for particular purposes, and in a particular manner only. It was not contended that the loan had been contracted under the power of this section. It was argued before us that the so-called loans might be treated as payment by the bankers of cheques drawn by the board for purposes authorized by the Act, when there was no balance in the hands of the bankers or treasurers to meet the cheques, and that this was not borrowing. It is unnecessary, in our opinion, to decide whether this would be borrowing, inasmuch as, in our opinion, we must treat the transaction as one not of mere overdraft, but as an advance made upon terms agreed upon between the bankers and customer, and the counsel for the school board in effect contended that the school board had, independently of section 10, power to borrow such sums of money as they may think fit to raise for purposes authorized by the Act, though he said that to do so to an excessive amount would be an abuse of their power. Has a school board any such power? It was conceded that there was no express power in the Act to raise money borrowed in the present case. But

it was said that every corporation, unless restricted by its Act of incorporation, has the same power as an individual to enter into contracts, including that of borrowing money, on the ground that the existence of such a power is to be implied either from the terms of the Act, or as being necessary. In our opinion, this contention on behalf of the school board cannot be maintained. In our opinion, the power of a corporation established for certain specific purposes must depend on what those purposes are, and except so far as it has express powers given to it, it will have such powers only as are necessary for the purpose of enabling it, in a reasonable and proper way, to discharge the duties or fulfil the purposes for which it was constituted. But the counsel for the respondent also contended that school boards had an implied power to borrow, and that the existence of such a power was to be implied, either from the terms of the Act, or on the ground that such a power is necessary to enable school boards to discharge the duties imposed upon them by the Act. As we understand the reasons given by the judges in the Queen's Bench Division for their decision, neither of them adopted the proposition contended for by the respondent as to the power of corporations to borrow, but decided in favour of the school board, on the ground that the 53rd section of the Act of the 33rd and 34th Vict. impliedly gave the school board power to borrow money, or that such a power was necessary to enable them duly to discharge their duties. The words of the 53rd section are as follows:—"The expenses of the school board under this Act shall be paid out of a fund called the school fund. There shall be carried to the school fund all moneys received as fees from scholars, or out of moneys provided by Parliament, or raised by way of loan, or in any manner whatever received by the school board, and any deficiency shall be raised by the school board as provided by this Act." The words relied upon by the Lord Chief Justice were "out of moneys raised by way of loan." In the first place, this section does not give the board any power of raising money. It only provides how expenses are to be paid out of funds which it assumes that the board have power to raise. If there had been no express power of borrowing contained in the Act, it might have been said that the words relied upon by the Lord Chief Justice assumed that the board had an implied power of borrowing; but the express power given by section 57 of that Act, now existing under the 10th section of the later Act, is

sufficient to satisfy the words relied upon by the Lord Chief Justice, and, in our opinion, prevent any implication of a general power to borrow being raised by these words. Is there anything else in the Act which gives a school board by implication a power to borrow money? The express power to borrow given in certain specific cases is against raising an implication of any power to borrow, but we must look at the words of the Acts. The express power to borrow, given originally by the 57th section of the Act of 1870, and now by the 10th section of the later Act, is an authority given only in the event of the Education Department consenting to the payment of expenses therein mentioned being spread over several years, which, in our opinion, shows an intention that except in the cases specified in those sections and with the consent therein referred to, all expenses were to be paid as they were from time to time incurred, and section 54 of the Act of 1870 enacts that the means for enabling these payments, except so far as provided by the other sources mentioned in section 53, is to be provided by funds to be from time to time paid by the rating authority of each district of the school board, in accordance with a precept served by the school board. This is against implying from the words of the Act any power to borrow, and, in our opinion, there are no words in the Act from which power to borrow can be given by implication to the school board. It remains to be considered whether it is reasonably necessary that a school board, in order to discharge its duties, should have power to borrow; but section 54 enacts "That any sum required to meet any deficiency in the school fund, whether for satisfying past or future liabilities, shall be paid by the rating authorities out of the local rate." No doubt the school board has, from time to time, to make payments to a large amount; but the sum required to meet these expenses can be calculated, and the 54th section enables the board to raise by precept on the rating authority the sum necessary to provide for the future expenses, and if they allow a reasonable margin to meet unexpected payments we can see no reason why, by the means pointed out in section 54, they should not without any borrowing provide for their current expenses. A trading corporation stands as regards an implied power to borrow in a different position from a school board. In our opinion, it is not necessary, to enable a school board to discharge its duties in a reasonable way, or to make the payments that it has to make, that the board should borrow

money. In our opinion, with the exception of the powers given in section 10 of the Act of 1873, a school board has no power to borrow, and we think that the auditor rightly disallowed the charge of interest. But it must be remembered that, in section 4 of the 11 & 12 Vict., c. 91, power is given to the Poor Law Commissioners, now vested in the Local Government Board, to allow any sum properly disallowed or surcharged by the auditors, if, in their opinion, it is fair and equitable that such disallowance or surcharge should be remitted. This will obviate any injustice or difficulty in the event of the school board, in consequence of some unforeseen emergency, finding it necessary to borrow. In our opinion, the appeal must be allowed, and the judgment appealed from reversed.

Judgment of Queen's Bench Division reversed accordingly.

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